

Employee Handbook

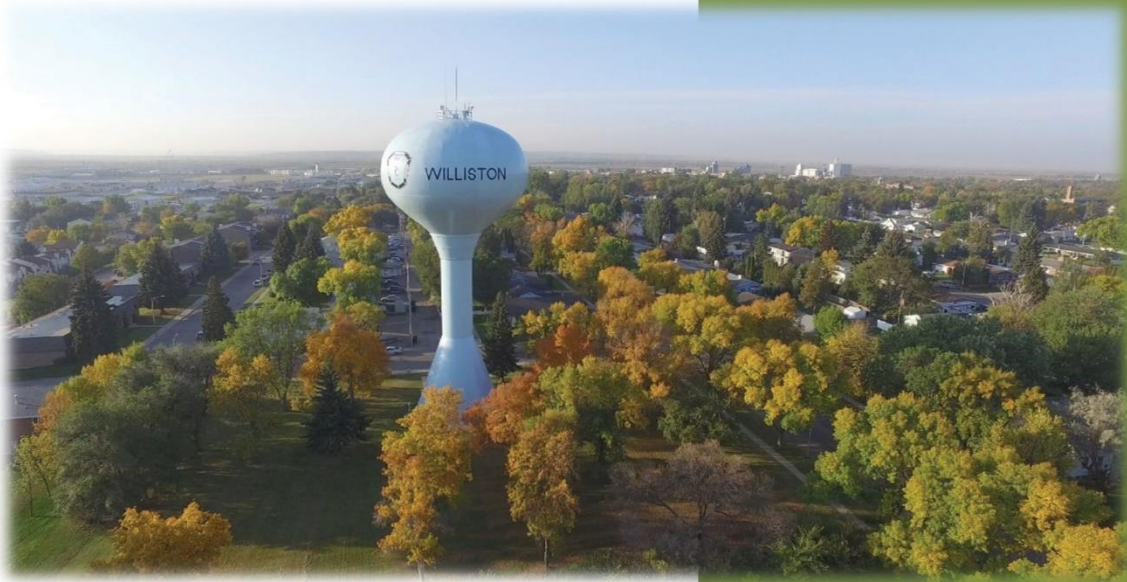


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22 East Broadway
P.O. Box 1306
Williston, ND 58802-1306
(701) 713-3800

Statement of Purpose and Disclaimer

The City of Williston Employee Handbook has been drafted as a guideline for employees of the City of Williston. The policies described in the handbook are not conditions of employment, and the language is not intended to create a contract between the City of Williston and its employees. The handbook is not intended to be all-inclusive and it is not intended to cover every situation that an employee may encounter.

The handbook describes the City of Williston's general philosophy outlining policy guidelines, benefits, and the requirements of job performance expected of you. While this handbook makes reference to some specific policies and procedures, any part of the handbook, which is not clear to any employee, should be discussed with their Department Head, supervisor or Human Resources Director.

The City of Williston will make every effort to keep this handbook current, however there may be times when a policy will change before this material is revised or re-published. All employees will operate under the most current version of the handbook as maintained in the City Administration office. The City of Williston reserves the right to revise, modify, suspend or revoke any provision of this document at any time, in its sole discretion, with or without notice.

Furthermore, the City of Williston is committed to creating and supporting a workplace and services that are free from discrimination and harassment, promote fairness and equity and value the contributions of all its employees and citizens. We believe that people of diverse backgrounds and beliefs enrich our City and our work environment and we are committed to promoting the dignity of, and interacting positively with all.

The City of Williston will treat everyone with respect, courtesy, and dignity, and will interact in a way that appreciates the diversity and uniqueness of all.

The City of Williston remains committed to a policy of equal employment opportunity for all City employees and applicants for City employment, as established by both Federal and State law. We reaffirm our legal obligation and organizational commitment to foster an employment environment free from discrimination and to consider all employees for placement, development programs, job assignments, transfers and promotions regardless of age, race, color, creed, sex, religion, national origin, sexual orientation, gender identity or expression, genetic information, physical or mental disability, marital status, military status/service, or domestic violence victim status.

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CITY OF WILLISTON

INTRODUCTION

The City of Williston Employee Handbook provides statements of policy and establishes required procedures relating to personnel administration that are necessary to manage City operations effectively and efficiently. This Handbook is issued under the authority of the City of Williston Board of City Commissioners. The provisions of this Handbook create high standards of conduct so that performance can be aimed at the highest level of civic responsibility.

The purpose of the City's Employee Handbook is to acquaint you with the City of Williston and provide information about working conditions, employee benefits, and policies affecting employment. The information contained in this handbook applies to all employees both on and off duty, unless otherwise indicated, restricted by proper authority, or limited by law. Unless otherwise noted, an employee who separates from the City prior to an administrative process being completed (i.e., grievances and investigations) waives all further appeals. It is the responsibility of the employee to review the handbook and comply with the policies, as well as all other rules, guidelines and regulations implemented in accordance with these policies.

The Employee Handbook is prepared for informational purposes only and shall not be construed to be an employment contract or create any promise of continued employment with the City of Williston. Employment with the City is [at-will](#). This means the employee, or the City may end the employment relationship at any time at the will of either party on notice to the other. All employees are subject to termination.

Statements of specific grounds for termination set forth in this handbook or in any other city documents are examples only, not all-inclusive lists, and are not intended to restrict the City's right to terminate at-will.

Probationary period completion does not change an employee's status as an employee-at-will or restrict the City's right to terminate such an employee or change the terms or conditions of employment.

It is important to understand that no employee manual or handbook can anticipate every circumstance or question. Due to changes in state and federal laws, portions of these guidelines may be superseded. It is the intent of the City to monitor and follow any such legislation.

The City reserves the right to revise, supplement, or rescind any policy or portion of the City of Williston Employee Handbook from time to time, as it deems appropriate, at its sole and absolute discretion. When there are revisions, supplements or other changes to the handbook, supervisors and employees will be notified.

Should you have any questions as to the interpretation or understanding of any policy, procedure or practice, please visit the Human Resources Department. The Human Resources Department administers the City's personnel functions and employment policies, in accordance with applicable state and federal laws. As a matter of policy, all personnel records and policy administration shall be the responsibility of the Human Resources Department. All references to the City of Williston Employee Handbook shall mean the most recent version.

Individual Department Rules and Policies

Individual departments may have and develop departmental policies and procedures which are in addition to the policies and procedures listed in this handbook and are to be followed by department employees.

With the exception of matters of appointment and other personnel actions reserved to the Board of City Commissioners by [North Dakota Century Code](#) or ordinance, the final authority on personnel decisions is reserved for the City Administrator or designee. Although major areas of policy are defined in the handbook, there may be situations which are not specifically cited. In these instances, the City Administrator retains the right to establish policy.

Application of Policies

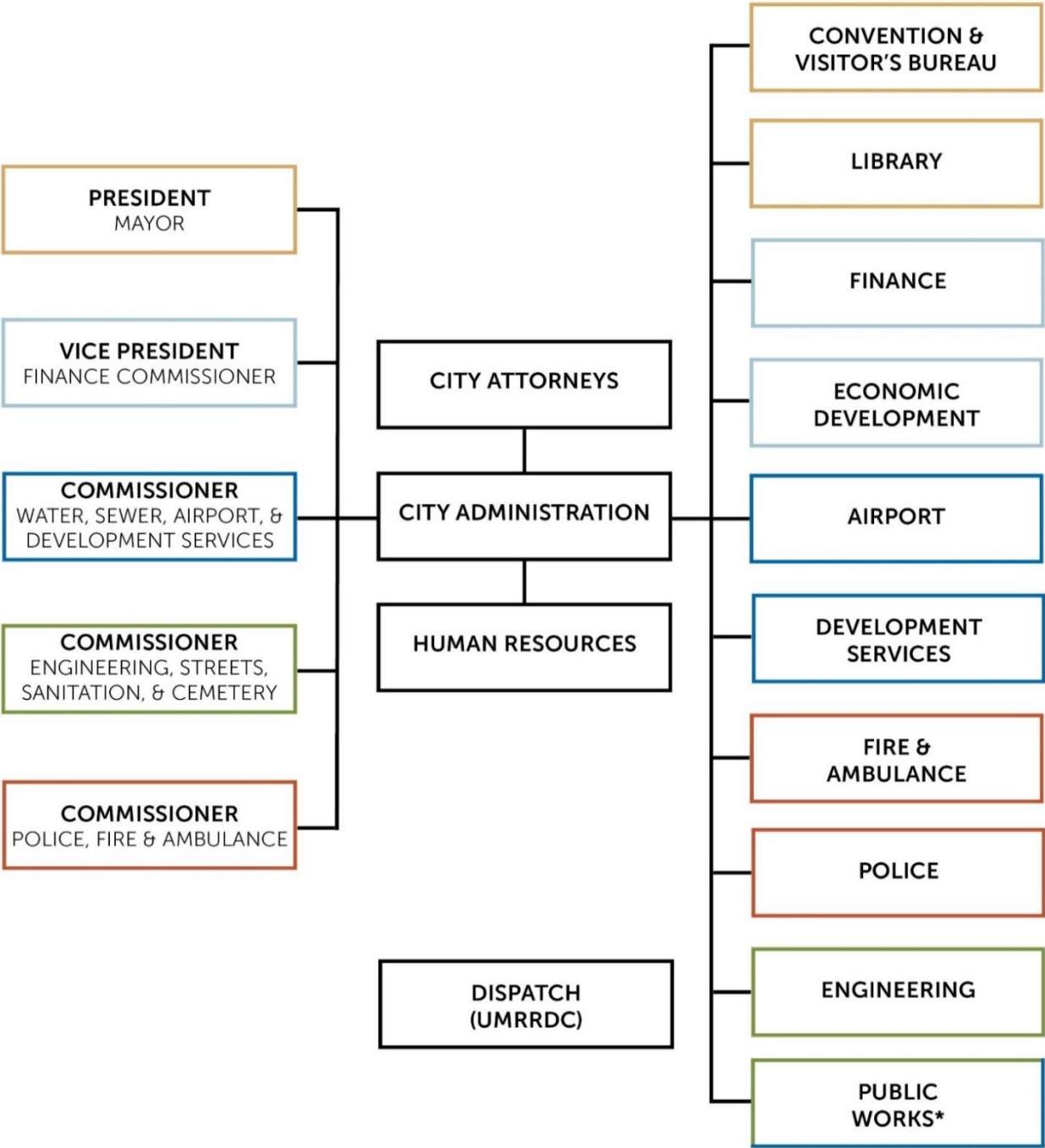
The City of Williston Employee Handbook shall apply to all employees, provided that the provisions may be varied in the case of an employee with a written employment agreement approved by the Board of City Commissioners. All employees must become familiar with and abide by the policies and procedures contained in this handbook, both on and off duty where applicable, unless otherwise restricted by proper authority, or prohibited by state and/or federal law.

The City reserves the right to interpret, change, suspend, or cancel, with or without notice, all or any part of the policies and procedures contained herein.

General and final authority for personnel and policy administration rests with the City Administrator, with the exception of matters reserved to the Board of City Commissioners.

CITY OF WILLISTON

ORGANIZATIONAL CHART



*Public Works is divided across two portfolios by Water & Sewer and Streets & Sanitation.

CHAPTER 1: EMPLOYMENT STANDARDS

The purpose of this chapter is to define the standard for employment practices for the City of Williston. The City's policies and procedures defined herein are to establish fair and equitable guidelines for all applicants and employees. These standards are intended to bring to the City a high degree of understanding, cooperation, efficiency, and unity through a systematic, uniform application of modern personnel practices.

The policies and procedures apply to all employees and are designed to do the following:

- Promote productivity, responsiveness to the public, and economy in city service.
- Provide fair and equal opportunity for qualified persons to enter and progress in city service in a manner based on performance through fair and practical personnel management methods.
- Promote high morale among employees by fostering good working relationships through uniform personnel policies, opportunities for advancement, and consideration of employee needs and desires.
- Assist department heads and other supervisors in dealing with employment related issues, as they arise.
- Enhance the attractiveness of a career with the City of Williston.
- Provide each employee with a safe work environment.
- Provide clear and consistent guidelines to which all employees will be held accountable, ensuring a professional and fair workplace.

At-Will Employment

Employment with the City of Williston is for no fixed or definite term. All employment with the City has been and continues to be [at-will](#), except for those positions that may have a written contract approved by the Board of City Commissioners. This means that employment having no specified term may be terminated at the will of either party on notice to the other. Although adherence to these policies is considered a condition of continued employment, nothing in these policies or procedures is intended to alter the continuing [at-will](#) status of employment with the City of Williston and does not constitute a contractual relationship.

The Employee Handbook shall not constitute nor be deemed a contract or promise of employment.

Equal Employment Opportunity

To help ensure that equal employment and advancement opportunities are available to all individuals, employment decisions at the City will be based upon merit, qualifications, and abilities. The City of Williston is an equal opportunity employer. Discrimination against any person in recruitment, examination, selection, appointment, rate of pay, promotion or transfer, retention, daily working conditions, training, awards, compensation and benefits, disciplinary measures, or any other aspect of employment because of race, color, national origin, religion, age, sex, sexual orientation, gender identity or expression, physical or mental disability including pregnancy, marital status, genetic information, equal pay, veteran's status, or other unlawful basis, is prohibited.

In accordance with the [Americans with Disabilities Act](#) (ADA), the City of Williston will make reasonable accommodations for qualified individuals with known disabilities, except where specific requirements are an occupational qualification necessary to the proper and efficient operation of the City.

In compliance with [Genetic Information Nondiscrimination Act](#) (GINA), the City of Williston prohibits discrimination and retaliation of employment opportunities or practices based on genetic information.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring those issues to the attention of their immediate supervisor, department head, or the Human Resources Department. Employees may raise concerns and make reports without fear of reprisal or retaliation. Anyone found to be engaging in discrimination or retaliation will be subject to disciplinary action up to and including termination.

The City of Williston will not tolerate derogatory remarks or actions by employees regarding race, color, national origin, religion, age, sex, sexual orientation, gender identity or expression, national origin, ethnic affiliation, physical or mental disability, marital status, public assistance, genetic information, veteran status, or any other characteristic protected by law.

Americans with Disabilities (ADA)

The City of Williston is committed to abiding by the requirements of the [Americans with Disability Act \(ADA\)](#) of 1990, as amended, to create and sustain an environment that strives to accommodate, support, and value all employees, regardless of disabilities.

The City of Williston prohibits discrimination on the basis of disability against qualified individuals with disabilities in every aspect of employment, including job application procedures, recruitment, hiring, promotion, demotion, layoff and return from layoff, compensation, job assignment, paid or unpaid leave, fringe benefits, training, or other terms, conditions, and privileges of employment.

[The Americans with Disabilities Act](#) (ADA) and the [Americans with Disabilities Act As Amended](#) (ADAAA) requires employers to reasonably accommodate to the known physical or mental limitations of otherwise qualified applicants or employees with disabilities, unless undue hardship on the operation of the City would result or directly threaten the health or safety of the individual or others. The City of Williston will comply with all state, federal and local laws relating to the employment of applicants and employees with disabilities and reasonably accommodate qualified individuals with a disability so they can perform the essential functions of the job in question.

An individual, who can be reasonably accommodated for the job in question, without undue hardship, will be given the same consideration for that position as any other applicant or employee. Applicants who pose a direct threat to the health or safety of the individual or of other individuals in the workplace will not be considered qualified for any position in the City, and such employees will not be hired or promoted. Direct threat to safety is defined as a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation. All employees are required to comply with safety standards. Current employees who pose a direct threat to the health or safety of the individual or of other individuals in the workplace will be placed on leave until the City determines an appropriate resolution to the situation.

[How to Request an Accommodation](#)

The administration of ADA is an interactive process between Human Resources, the employee, and the employee's supervisor. If an employee or someone on behalf of the employee believes an accommodation is needed, they should contact Human Resources to begin the interactive process. An applicant and/or employee is fully responsible for providing a request for accommodation when needed. Any request for accommodation must be reasonable, may not cause undue hardship, not be a threat to safety, and will enable the employee to perform the essential functions of the position. Each request will be evaluated on a case-by-case basis. All requests are confidential. The review and coordination of any request for accommodation for disability will be limited to those who have a right to know.

The Human Resources Department is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

The Human Resources Director is designated as the ADA Coordinator, responsible for the receipt, review, and response to requests for accommodation from the applicant or employee. Additionally, the Human Resources Director or designee is also responsible for informing the department head of the request and conducting the review with the appropriate staff, department and/or agency. The City of Williston will make every effort to offer reasonable accommodations to enable an employee to perform the essential functions of his/her position.

The applicant or employee will be provided the status of the request within five (5) working days. Extensions may be required contingent upon the complexity of the request. A need for extension will be provided in writing by the ADA Coordinator to the applicant or employee.

Should the applicant or employee disagree with the findings of the ADA Coordinator, the applicant or employee may appeal the decision of the ADA Coordinator within five (5) working days to the City Administrator or designee. The request for appeal must be provided in writing. The decision of the City Administrator or designee will be final.

Nepotism (Hiring of Relatives)

Employment of relatives presents the potential for conflict of interest problems, charges of favoritism by other employees, exposure to family discord that may impair the productivity of the related employees or other employees, problems in scheduling if related employees take time off together, unauthorized disclosure of confidential information, and pressure exerted on hiring supervisors.

The purpose of this policy is to clearly define the hiring, transfer and promotion standards when any relationship through blood, marriage, adoption or cohabitation presents a conflict of interest, the appearance of a conflict of interest, or conflict of work-related decisions.

The employment of individuals related through blood, marriage, adoption, or cohabitation within the City may cause serious conflicts and problems within a division or department, such as disruption of the work environment and favoritism, and could negatively impact morale. This section applies to all employees: full-time, part-time, paid on-call fire and seasonal. The City reserves the right to take prompt and appropriate action to eliminate the conflict or potential conflict.

To avoid potential conflicts, no city employee may take part in decisions to hire, retain, promote, or determine the salary of a member of his or her immediate family.

Immediate family for the purposes of this section shall be defined as parent (by birth or adoption), spouse, son or daughter (by birth or adoption), stepchild, brother or sister (by whole or half blood or adoption), brother-in-law or sister-in-law, son-in-law or daughter-in-law and any member of the employee's household.

In addition, no department head may be assigned responsibility for supervising and/or directing the work of a relative, an immediate family member or that family member's supervisor. As used in this section, "supervising" means the authority to appoint, employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote, or terminate. As used in this section "evaluate" does not include evaluations by peers or subordinates. This section does not apply to a temporary work arrangement necessary to meet a critical and urgent agency need.

If two employees in the same department of the City of Williston become immediate family by marriage and one has supervisory responsibility over the other, the supervised employee shall within six (6) months, resign or transfer to a position in another department of the City of Williston. Any transfer is dependent upon availability of a position, and no hiring preference shall be given.

All applicants for employment at the time of hire must disclose any relationship with elected city officials or any individual working for the City. Non-disclosure shall be considered misconduct and may result in disciplinary action up to and including termination.

Each department shall establish and maintain specific procedures which identify and act upon instances of nepotism. Department heads are responsible for ensuring policy compliance and monitoring changes in employee reporting relations after initial hire to ensure compliance with this policy. Employees are responsible for immediately reporting any changes to their supervisor.

The City Administrator or Human Resources Director reserves the right to apply the nepotism prohibition on a case by case basis where failure to do so would be detrimental to the City.

[North Dakota Century Code: 44-04-09. Nepotism](#)

Supervisor/Subordinate Dating

This section applies only to consensual romantic, emotional, or sexual relationships between supervisory personnel and those in their chain of command. The terms "dating" and "romantic relationship" as used in the section include, but are not limited to, casual dating, serious dating, casual sexual involvement, and any other conduct or behavior normally associated with romantic or sexual relationships.

The supervisor/subordinate dating section shall be implemented in a nondiscriminatory manner and the City shall take any steps necessary to avoid disparate impact on either sex. Supervisory personnel are prohibited from dating or engaging in romantic or sexual relationships with personnel who are in their chain of command. These restrictions on romantic relationships apply regardless of the sexual orientation of the employees involved. Romantic or sexual relationships between a supervisor and subordinate employee must be disclosed to the department head or next highest individual in the supervisory chain of command and to Human Resources.

Unwanted sexual attention (including physical contact) and sexually oriented behavior with the purpose or effect of creating an offensive environment is prohibited. See Chapter 5: Standards of Conduct, Sexual and Other Unlawful Harassment.

Outside or Secondary Employment

The City recognizes that employees sometimes seek additional employment during their off hours. The purpose of this section is to outline the conditions of employment before accepting another job or business opportunity outside their employment with the City.

The position an employee has with the City of Williston shall take precedence over any other occupational involvement of the employee. The acceptance of another job or business opportunity, such as contracting or self-employment, while in the employment of the City is permissible, as long as the following considerations are met:

- The employee must provide notice of the outside employment opportunity in writing to the department head by completing a Secondary Employment Notification Form. It will be the responsibility of the department head to determine whether or not outside employment will interfere with attendance or in any way diminish the capacity, duties, and/or expectations of the City position. If the department head approves the request for outside or secondary employment, the notification form shall be forwarded to Human Resources for approval and inclusion in the employee's personnel file.
- If outside employment has an adverse interest against the City, which would require the employee to take an adverse action or position relative to city employment, or it adversely affects the employee's attendance or performance of duties for the City, outside employment must be terminated. Approval of outside employment may be withdrawn at any time.

- Employees are prohibited from working for any contractor or company that has a contract with the City, during the period of work for the City.
- No employee shall accept employment that requires the use of city equipment, facilities, materials, or supplies.
- The department head may establish additional outside employment conditions because of the nature of job, hours of operation, or any other special needs of the department.
- Part-Time and seasonal employees should consult with their direct supervisor if considering additional employment to ensure scheduling and operations will not be disrupted.
- The outside or secondary employment notification form shall be updated annually.

Inability to Work for the City

If an employee is on leave for his or her own personal illness or injury, authorization for outside or secondary employment is suspended until further notice or upon which the employee returns to work without restrictions or modifications to their duties with the City.

Intellectual Property

Intellectual Property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, images, names, and logos.

Any materials, files, documents, electronic tools, or other items collected or created by an employee in connection with their employment remain the property of the City. Additionally, all material created, transmitted/sent, received, deleted, downloaded, or stored using electronic tools are and remain the property of the City. Employees have no expectation of privacy when using City property or in any work performed in association with the City of Williston or on city-owned equipment and/or devices.

Immigration Law Compliance

The City of Williston is committed to employing United States citizens and individuals who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the [Immigration Reform and Control Act of 1986](#), each new employee, as a condition of employment, must complete the [Employment Eligibility Verification Form I-9](#) and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the [form](#) if they have not completed an [I-9](#) with the City of Williston within the past three (3) years, or if their previous [I-9](#) is no longer retained or valid.

The City of Williston uses [E-Verify](#) for authorization of employment in the United States. Required documentation must be received by Human Resources within three (3) days of beginning employment.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Human Resources Department. Employees may raise questions or complaints about [immigration law compliance](#) without fear of reprisal.

[HIPAA Privacy Regulations](#)

The [Health Insurance Portability and Accountability Act \(HIPAA\)](#) was enacted in 1996 and was designed to improve access and transferability of health insurance and combat abuse in the health care industry. The [U.S. Department of Health and Human Services](#) has issued privacy and security regulations that cover health plans and health care providers, including the City of Williston's health plan. In accordance with [HIPAA](#), the following actions or requirements have been implemented:

- Before accessing personal health information, a written and signed authorization is required; and
- A privacy officer has been selected.

Should you have any questions regarding [HIPAA](#) or your personal health information, please contact the Human Resources Director.

The City of Williston will review these regulations annually to ensure compliance with state and federal laws. The City is taking these steps to ensure your privacy and to regulate distribution (verbal or otherwise) of confidential medical information.

[NOTICE OF HIPAA PRIVACY RIGHTS](#)

The City of Williston strives to protect the privacy of its employees' medical information to the greatest possible extent. To accomplish this, the City and its management staff and employees are required to follow these guidelines regarding the confidentiality of medical information:

1. All medical information concerning employees will be maintained in separate, confidential medical files that are stored apart from regular personnel records. Only authorized employees will have access to such files, and access will be provided solely on a need-to-know basis. Furthermore, such access shall be granted only in accordance with applicable law, which includes (but is not limited to) the [Americans with Disabilities Act](#), the [Family and Medical Leave Act](#), the [Federal Rehabilitation Act](#), state [workers' compensation law](#) and [state privacy laws](#).
2. Employees are hereby notified that medical information concerning employees and employee family members is absolutely confidential under state and federal laws and may not be discussed at any time with any person under any circumstances. Exceptions are if an employee needs to do so in order to carry out their job duties, or if the person discussing the information is talking with the subject of the information at that person's invitation. If an employee is concerned about a co-worker's possible medical condition, the employee should direct these concerns only to the HIPAA Compliance Officer and to no one else.
3. Any employee who is found to have discussed medical information about another employee or an employee's family member in violation of this policy, or who is found to have released such information without authorization, will be subject to disciplinary action, up to and including immediate termination from employment. In addition, employees who violate medical information confidentiality may be subject to civil and criminal liability under state and federal laws.
4. All access to employee medical records must be approved by the HIPAA Compliance Officer. If an employee believes that this medical information confidentiality policy has been violated, they should contact the HIPAA Compliance Officer. If it is believed that the HIPAA Compliance Officer has violated the policy, the employee should contact the City Administrator.
5. Medical records will not be provided to third parties, except when the City is properly served with a valid subpoena, release or applicable open records request. When possible, the City will notify the employee of the proper service of a subpoena upon an open records request, in order to enable the employee to take other action as deemed appropriate by the employee.

If you have any questions about this information, please contact the HIPAA Compliance Officer/Human Resources Director immediately.

CHAPTER 2: EMPLOYMENT STATUS AND RECORDS

Recruitment and Selection

Discrimination in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, based on an employee's or applicant's religion, race, national origin, color, sex (including sexual orientation and gender identity), age, citizenship, political affiliation, disability, genetics, veteran's status, or any other characteristic protected by law, is prohibited.

The City of Williston hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to religion, race, national origin, color, sex (including sexual orientation and gender identity), age, citizenship, political affiliation, disability, genetics, veteran's status, or any other characteristic protected by law. Selection for employment with the City of Williston is based on job-related qualifications and if applicable, is contingent on background check results, satisfactory results on exams or tests, as required by law, and/or specific qualifications to perform job duties.

Job Postings

It is the policy of the City of Williston to list openings for all positions on the City of Williston website. In most circumstances, the vacant position shall be left open a minimum of two weeks after the date it is first listed and advertised before it is filled. Existing employees are welcome to apply for openings, but no hiring preference will be given.

A recruitment method may be used for vacant director level positions or those positions with specific training or degree requirements, as determined by City Administration on a case by case basis.

In general, job postings will remain open until filled. At the direction of the City Administrator, some positions may not be advertised to meet a critical and urgent agency need. City Administration reserves the right to fill positions without advertisement as necessary.

Applications

Applicants seeking full-time, part-time, temporary, paid on-call fire, or seasonal employment or re-employment with the City of Williston must follow the current application process. Current employees applying for positions in other departments must complete the current application process. Completing this process allows the hiring department the opportunity to review the employee's information.

All information set forth on an application is subject to verification.

Veteran's Preference

Veteran's Preference will be granted based on applicable federal regulations and [North Dakota Century Code Chapter 37-19.1](#), which requires veterans who meet residency and service-period criteria and spouses of similarly-qualified veterans, be provided preference in public employment.

The City of Williston uses a competitive personnel system, which means a system has been established that rates applicants for a position using an objective set of skills, knowledge, abilities, behaviors, or other characteristics required for the position.

Hiring Process

Applicants for employment may be required to submit to a personal interview, background and employment reference check, and may be required to submit to drug and alcohol screening; and if necessary, as required by the position, a physical or pre-employment fitness evaluation.

Part-Time, Paid-On Call Fire, or Seasonal Employees for Full-Time Positions

Part-Time, paid-on call fire, or seasonal employees hired into full-time positions are subject to the same terms and conditions of employment as any probationary full-time employees.

Re-Employment

To be considered for re-employment, former employees must have demonstrated acceptable prior service with the City and must meet the current minimum qualifications for the position for which they are applying. Upon review by City Administration, re-hired employees are subject to the conditions of employment and benefits of a newly-hired employee, except where specifically stated otherwise.

Background Checks

All offers of employment at the City of Williston are contingent upon clear results of a thorough background check. Background checks will be conducted on all applicants extended an offer of employment and on all employees who are promoted, as deemed necessary.

Background checks may include:

- Social Security – Validates the applicant's social security number and date of birth.
- Prior Employment – Verification confirms applicant's employment with the provided companies, including dates of employment, position held and additional information available pertaining to salary/wages, performance rating, reason for departure and eligibility to rehire.

- County, State and Federal Criminal History – Checks may be made at the county, state, and federal levels for criminal records, and/or crimes committed in violation of law.
- Personal and Professional References – Calls will be placed to individuals listed as references by an applicant.
- Educational Verification – Confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.

The following additional searches may be required, if applicable to the position:

- Motor Vehicle provides a report on an individual's driving history in the state requested. This search will be run when driving is an essential requirement of the position and may be requested and/or completed at any time during employment.
- Credit History confirms the candidate's credit history. This search may be run for positions that involve management of city funds and/or handling of cash.

Omission or falsification of any material fact on an application disqualifies an applicant for consideration for employment, transfer or promotion.

Use of Criminal History

The City of Williston may require a criminal history check as part of the background check for all full-time, part-time, and temporary employees upon hire once a conditional offer of employment has been extended by the department head. Although a disqualification is possible, in accordance with federal and state laws, a previous conviction does not automatically disqualify an applicant from consideration for employment with the City of Williston. Depending on a variety of factors (for example, the nature of the position, the nature of the conviction, age of the candidate when the illegal activity occurred), the candidate may still be eligible for employment with the City of Williston.

If an applicant attempts to withhold information or falsify information pertaining to previous convictions, the employee will be disqualified from further employment consideration, in any position with the City, due to falsification of an application. An offer of employment may be extended to an applicant prior to completion of the criminal conviction check.

New Hire Orientation

New employees are required to meet with the Human Resources Department prior to starting work or within their first three (3) days of employment to complete new employee paperwork. Department heads must ensure that procedures contained in this Handbook relating to background checks, reference checks, orientation, training, evaluation, and necessary documentation of new employees are completed.

Residency Requirements

The City of Williston has a compelling interest in seeing that employees can be effectively called to duty in the interest of public safety. Every employee shall insure that their commuting distance allows them to report for duty in a timely, safe, and prudent manner, including during applicable emergency situations and call-backs. Each department head shall determine the emergency response time or call-back response time for applicable positions in that department. The emergency response time or call-back response time shall be listed in the job description or in the manual of those departments with written standard operating procedures, and it is the responsibility of each employee to know what emergency response time or call-back time is required for the position held.

Job Classifications

It is the intent of the City of Williston to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time. The right to terminate the employment relationship at-will at any time is retained by both the employee and the City of Williston.

Each position is designated as either [NON-EXEMPT](#) or [EXEMPT](#) from federal wage and hour laws ([FLSA](#)). Classification changes may only be made upon written notification by the Human Resources Director.

[EXEMPT](#) are employees who perform executive, administrative, or professional functions and are paid on a salary basis regardless of the number of hours worked in a pay period. Exempt employees are excluded from overtime pay requirements per [FLSA](#). The positions that fall under this category are validated with a series of tests to ensure qualification under the [FLSA](#) overtime exemption.

[NON-EXEMPT](#) are employees who are not classified as exempt and are paid on an hourly basis for the number of hours worked. Non-Exempt employees are considered hourly and are entitled to overtime pay per [FLSA](#) (Fair Labor Standards Act).

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

FULL-TIME employees are those who are not in a temporary status and who are regularly scheduled to work a full-time schedule. Full-Time employees working thirty-three (33) or more hours in a week on a regular, ongoing basis for an indefinite period of time are considered full-time for the purpose of benefit eligibility.

FULL-TIME SEASONAL employees are hired to work a scheduled thirty-three (33) or more hour work-week for an indefinite period of time, for more than seven (7) months but less than twelve (12) months per year. Full-Time seasonal employees shall be entitled to the same benefits of full-time employees, during the time the full-time seasonal employees are actively working.

PART-TIME employees are those who are not in a temporary status and who are regularly scheduled to work between twenty (20) and thirty-two (32) hours per week. Employees serving in this job classification, are eligible for pro-rated benefits and leave.

PART-TIME FIRE employees are those who are not in a temporary status and who work a minimum of 72 hours per month. Employees serving in this job classification may not work more than a maximum of 130 hours per month, unless assigned to a specialty team. Part-time Fire employees are not eligible for benefits and do not receive sick leave, vacation leave or personal leave. Part-time Fire employees are not entitled to paid holidays.

SEASONAL employees are hired for a limited period of time not to exceed seven (7) months. Seasonal employees are not eligible for benefits and do not receive sick leave, vacation leave, or personal leave. Seasonal employees are not entitled to paid holidays. Employees serving in this job classification are subject to all policies and procedures of the City of Williston, with the exception of grievance rights.

PAID ON-CALL FIRE employees are active members of the Volunteer Fire Department and perform fire suppression and other related emergency services for a local jurisdiction. Paid On-Call Fire employees are not eligible for benefits and do not receive sick leave, vacation leave or personal leave. Paid On-Call Fire employees are not entitled to paid holidays. Employees serving in this job classification are subject to all policies and procedures of the City of Williston, with the exception of grievance rights.

TEMPORARY employees are hired for an indefinite period of time on a temporary basis. Temporary employees are not eligible for benefits and do not receive sick leave, vacation leave or personal leave. Temporary employees are not entitled to paid holidays. Employees serving in this job classification are subject to all policies and procedures of the City of Williston, with the exception of grievance rights.

Probationary Period

All new or re-hired employees hired to fill positions for an indefinite period of time (full-time employees, full-time seasonal employees, and part-time employees) must satisfactorily complete an initial probationary period of one (1) year.

During the probationary period, the employee may be dismissed at the discretion of the department head or City Administration without the right to grievance procedures. In the event a department head desires, the probationary period may be extended up to an additional six (6) months for any or all department employees.

For current employees in cases of promotions, newly created positions, transfers and demotions, employees will begin a new probationary period not to exceed one (1) year, for the purpose of determining the employee's qualifications and abilities to meet the job requirements.

Sick and vacation time is accrued and may be used by the new employee during the probationary period.

No probationary employee may be reassigned, promoted, or allowed to voluntarily transfer during the probationary period, unless the department head and Human Resources determines that such action is a business or operational necessity.

Performance Evaluations during the Probationary Period

All employees serving in the probationary period shall be periodically evaluated and will receive a performance evaluation(s). These evaluations are designed to evaluate each employee's performance and to communicate that performance to the employee. A performance evaluation shall be completed within 30-days of the completion of the one (1) year probationary period.

Extensions to Probationary Period

The probationary period may be extended under the following circumstances:

At the end of the one (1) year initial period, the probationary period may be extended for up to an additional six (6) months when an employee's performance has been marginal due to extenuating circumstances, additional training is warranted, or an employee's absence from work for an extended period of time did not permit an opportunity for adequate assessment of performance. The decision to extend or not to extend an employee's probationary period may not be appealed using the grievance procedure. If an extension to a probationary period is granted, the employee will be advised in writing and given the date on which the extended probationary period will be completed. Such extension will be at the sole discretion of the department head and Human Resources Director.

A probationary period may be extended for time spent on approved leave of absence including leaves of absences due to injury or illness or approved military leave. The approved extension will normally equal the length of time away from work. Accordingly, each full-day absence incurred by an employee during the probationary period will normally extend the one (1) year probationary period by an additional day.

Termination of Employees Serving in the Probationary Period

All employees of the City of Williston including those serving in the initial probationary period are [at-will](#) employees and may be terminated at any time during the orientation period with or without notice or cause. An employee serving in the initial probationary period who is terminated has no right to grievance procedures. Employees serving in the initial probationary period are subject to all policies and procedures of the City of Williston, with the exception of grievance rights.

Code of Conduct

Employees serving in the probationary period are subject in all respects to the Code of Conduct Policy, including sexual and other unlawful harassment. Employees completing their probationary period shall have no right to grievance procedures; however, if it is believed that unlawful harassment or discrimination has occurred, such conduct must immediately be reported as defined in City policy.

Performance Evaluations

The City of Williston strives to provide an environment where all employees understand the impact their contributions have on the achievement of city goals and are provided the opportunity for ongoing personal growth. The purpose of a performance evaluation is to provide ongoing dialogue between employees and supervisors.

A performance evaluation shall consist of three (3) phases:

- **Planning:** the employee and supervisor work together to mutually develop and establish goals and objectives for the upcoming review period;
- **Managing:** the employee and supervisor communicate regularly to stay abreast of progress towards the successful completion of said goals and objectives;
- **Review:** the employee and supervisor meet to review progress towards goals and objectives established in the planning phase.

This process involves mutual effort between the employee and the supervisor, and is documented through the managing phase, as well as various formal and informal communications between said meetings.

Annual performance evaluations should be completed for all employees. At the department head's discretion, the annual performance evaluation may be completed within thirty (30) days of the employee's annual anniversary date.

Addressing Unsatisfactory Performance

Any deficiencies in performance and/or conduct shall be documented in writing and addressed with the employee. Addressing unsatisfactory performance should never wait until the annual performance review.

Unsatisfactory performance or behavior may be addressed in various ways, including but not limited to:

- Verbal Counseling
- Written Reprimand
- Performance Improvement Plan
- Suspension
- Demotion
- Termination

An employee has no appeal of a performance evaluation but may attach a written response to the review document. If the employee submits a disagreement statement, it will be attached to the review document.

Personnel Files

The City of Williston maintains an official personnel file in Human Resources on each employee including such information as the employee's job application, resume, performance evaluation, personnel status forms, disciplinary records and other employment records.

All paper-based documents relating to the City's personnel are kept in secure, locked files in the Human Resources Department. All personnel files and records must remain in the Human Resources Department at all times.

Restriction of File

Personnel records, including information regarding the salary and job performance of a public employee, are generally open to the public. However, there is an exception to this general rule for "personal information" regarding a current or past public employee, or application for employment with a public entity.

“Personal Information” means a person's month and day of birth; home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, phone number, and date of birth, of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution. Information regarding the type of leave taken by an employee is exempt, although the amount of leave taken or accrued, and the dates of the leave taken, is public record. Information regarding leave applied for, but not yet taken, is exempt until the leave is taken. [N.D.C.C. § 44-04-18.1\(2\).152](#)

Information other than what is listed above, including information contained in a job application or resume submitted by an applicant for employment with a public entity, is open to the public, unless otherwise made exempt, confidential, or protected by law.

Additionally, department heads or supervisors of the City who have a legitimate reason may review information in a file. Medical, benefit, and deduction related records are maintained separate from the personnel file and will not be released to the public, unless required by law.

[North Dakota Office of Attorney General Open Records Manual.](#)

Employee Access to File

Employees who wish to review their own file shall contact the Human Resources Department to schedule an appointment. With reasonable advance notice, employees may review their own personnel file in the Human Resources Department in the presence of a Human Resources representative. The employee may review the files and take notes or request copies of select pages but shall not add or remove anything from their personnel file.

Personal Changes

It is the responsibility of each employee to notify the Human Resources Department within one (1) week of any changes in personal data, such as personal mailing address, telephone numbers, emergency contact, etc. For employees with dependent insurance coverage, the number of dependents and names of dependents must also be kept up-to-date.

Confidentiality of Medical Information

Federal law requires the City to maintain all employee medical information in separate confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee.

Examples of information that may be provided to the City by an employee or the employee's health care provider, and maintained in the confidential medical file, include:

- A note to justify an absence;
- A note to request medical leave;
- A note to verify the employee's ability to return to work;
- Medical records to support a claim for sick pay or disability benefits;
- Insurance records;
- Workers' compensation records;
- Medical history records;
- Any other documents or materials that reveal the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

The City does not request genetic information from an applicant, employee, or health care provider.

It is important that employees understand medical records are confidential, but the confidentiality may be waived when the employee provides medical information to their supervisor or Human Resources Department. When an employee provides information to their supervisor, the supervisor is expected to share the information only on an "as needed" basis with other members of administration or leadership team.

In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of other coworkers' medical information. Employees are expected to use discretion and judgment when dealing with such information and are to refrain from passing along information, gossip, rumors or anything else that may constitute an invasion of a coworkers' privacy.

Job Descriptions

The City of Williston makes every effort to create and maintain accurate job descriptions for all positions within the City. Each job description includes the following sections: job summary, essential duties and responsibilities, job requirements and work environment.

The City maintains job descriptions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.

Existing job descriptions should be reviewed each time the position becomes vacant. Job descriptions should be reviewed by the department on an annual basis to ensure they are up-to-date and reflect changes. Employees are expected to help ensure their job descriptions are accurate and current, reflecting the work being done.

Employees must remember that job descriptions do not necessarily cover every task or duty assigned, and additional responsibilities may be assigned as necessary. Employees may contact the Human Resources Department with questions or concerns about the job description.

Position Reclassification

Reclassification of a position may occur at the discretion of Human Resources when the job duties performed, and the minimum qualifications of the position have significantly changed since the job description was written. Reclassification may result in a position being placed in a higher, lower, or same classification and/or wage. Employees whose positions are reclassified will be given advance written notice of the reclassification by the department head.

Separation from Employment

The City designates all employee separations as one of the following types:

Resignation

Resignation is a voluntary act initiated by the employee to end employment with the City. An employee who intends to terminate employment with the City of Williston is requested to notify the supervisor and/or Human Resources representative by submitting a signed and dated written resignation at least two (2) weeks prior to the last day of work. Employees and the City of Williston are engaged in an at-will employment relationship. However, either party is free to terminate the relationship at any time, with or without cause. The City of Williston is not bound by any verbal promises concerning an employee's length of employment. **Also see Chapter 4: Leaves of Absence – Payment upon Separation.**

End of Seasonal Employment

Employees who are considered seasonal employees will separate from employment at the end of the seasonal period.

Paid On-Call Fire

Employees who are considered paid on-call fire will separate from employment after six (6) months of inactive service.

Retirement

An employee must give written notice of intent to retire to his/her immediate supervisor no less than thirty (30) calendar days before the effective date of retirement. It is, however, encouraged to provide notice ninety (90) calendar days before the effective date of retirement. The retiring employee must indicate in the retirement intent notice the last day/shift/hour to be worked. **Also see Chapter 4: Leaves of Absence – Payment upon Separation.**

Dismissal/Termination

The City of Williston may terminate an employee's employment as a result of unsatisfactory performance, conduct, and/or violation of city policies or procedures, including a new hire or re-hire who fails the probationary period. City employees who are terminated are not eligible for rehire.

On the occasion of a violation or upon evidence of unsatisfactory service, the immediate supervisor or department head of the employee may take any of the following actions:

- Meet with the employee to discuss the matter;
- Inform the employee of the nature of the problem and the action necessary to correct it;
- Document the meeting, the nature of the problem and items discussed;
- Provide a summary of the meeting, including the employee name, when the meeting was held, and items discussed at the meeting to the supervisor or department head.

Should a second violation occur, or should unsatisfactory service continue, the supervisor or department head may hold a second meeting with the employee and may take any of the following actions:

- Issue a reprimand to the employee;
- Warn the employee a third violation may result in more severe disciplinary action including termination; and
- Prepare and forward to the Human Resources representative a written report describing the first and second violations and summarizing the action taken during the meetings with the employee.

Should additional violations occur, or unsatisfactory service continue, the department head may take disciplinary action which may include the following:

- Issue a written reprimand or warning to the employee;
- Suspend the employee without pay and benefits for up to five (5) working days; or
- Suspend or terminate the employee; and
- Prepare and forward to the Human Resources representative a written report describing the violations, indicating the timing between the violations, and summarizing the action taken and its justification.

In cases involving serious misconduct, the department head may suspend the employee immediately, or if appropriate, terminate the employee.

If a department head terminates an employee, a complete investigation of the situation may be conducted by the Human Resources Department.

In cases involving violation of city policy or unsatisfactory service by a department head, the disciplinary procedure may be initiated by City Administration. On the occasion of evidence of unsatisfactory service, the Human Resources Director may provide a written report regarding the violation and action taken. The written report may be provided to each member of the Board of City Commissioners, the City Administrator, and to the department head's permanent personnel file in the Human Resources Department. Termination of employment of a department head shall be determined by super majority vote of the Board of City Commissioners.

Reductions-in-Force/Layoff

An employee may be separated from city service when it is deemed necessary by reason of budgetary shortage or work, the reduction of the position, other material change in the duties of the organization, or for other reasons which are outside the employee's control, and which do not reflect discredit upon the service of the employee. In this event, at least two weeks' notice prior to dismissal shall be given to an employee, except for persons employed for a specific period. **Also see Chapter 4: Leaves of Absence – Payment upon Separation.**

Exit Processing

Employees shall contact the Human Resources Department at least five (5) days before the date of separation from city employment to review final pay, benefits determination, and an exit interview.

Timekeeping

The City of Williston shall establish official work hours for any position.

Accurately reporting time worked and leave used is the responsibility of every employee. The City must keep an accurate record of time worked in order to calculate employee pay and benefits.

Employees are required to use the Kronos/UKG system to electronically document arrival and departure times, including lunch periods. Supervisors may enter time worked for their employees only under special circumstances, (i.e., power failure, employee working elsewhere, missed punch, etc.).

Late arrival or early departure from scheduled hours must be accounted for. An employee must take accrued leave, if available, to account for any disparity or gap in scheduled hours, unless the employee has a pre-approved alternate work schedule. **See Chapter 2: Employment Status and Records – Alternate Work Schedules.**

Time worked includes all time that an employee is required to be physically at work for the City.

Time worked is used to determine overtime pay for non-exempt employees.

The City does include the following provisions as time worked:

- **Paid Leave:** The City of Williston includes paid leave time in the calculation of overtime for non-exempt employees. Approved paid leave includes, but is not limited to, sick leave, vacation leave, personal leave, funeral leave, military leave, jury duty, and voting time off.
- **Work Away from Premises or at Home:** A non-exempt employee shall not be permitted to perform work away from the premises, job site, or at home, unless approved in advance by Human Resources. If approved, work performed off the premises, job site or at home by a non-exempt employee must be counted as time worked.
- **Break Time:** Rest periods shall be granted by the department head providing they do not interfere with the job or with maintaining uninterrupted service. Rest breaks shall be limited to two (2) per day consisting of fifteen (15) minutes each: one (1) in the morning and one (1) in the afternoon; or, at the option of the supervisor, one (1) break of thirty (30) minutes per day. When engaged in outdoor work, the employee shall not be allowed to leave the job site for breaks. When performing work in several locations, the employee shall be permitted to stop for authorized breaks en route to a different location.
- **Travel and Training:** Work-related travel time will be shown on timecards and compensated as worked time; only times actually spent traveling or in training may be shown.

Time spent at training or a seminar that may be documented as worked time on a timesheet is limited to the educational time (excluding meals, parties, socials, etc.) to a maximum of eight (8) hours per day, unless pre-authorized by the department head. Any variance from this policy must be approved by the department head prior to payment.

Time Not Worked per the [Fair Labor Standards Act](#) (FLSA), the City does not count the following provisions as time worked:

- Lunch or Dinner Periods: Uninterrupted time off for lunch or dinner is not counted as time worked.
- Ordinary home to work travel or work to home is not considered time worked.
- On-Call time is not considered time worked, unless required to remain on the premises or when dispatched.

Non-exempt employees must accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They must also record the beginning and ending time of any split shift or departure from work for personal reasons. It is the employee's responsibility to review and verify their time records to certify the accuracy of all time recorded. In the event of an error in reporting time, immediately report the problem to payroll. Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

Alternate Work Schedules

Subject to operational requirements, regular full-time employees may be permitted to work an alternate work schedule that allows the employee to work outside their normal work hours, as specified in this section.

Approval Process

Any alternate work schedule for an individual must be agreed to in writing by the employee, supervisor, and department head prior to implementation. The Human Resources Department must review and approve all alternate work schedules prior to their start.

Restrictions

The City may cancel or suspend an employee's alternative work schedule privileges at any time, for any reason, and for no reason.

Daily and weekly work schedules can be modified at the City's discretion to meet changing operational needs.

Employees may be required to depart from an alternate work schedule, as necessary, to work additional hours, to attend training, or for other business purposes determined by the City.

Unauthorized Additional Hours

Unless approved in advance by the employee's immediate supervisor, performing work at any time other than, or in addition to authorized working hours, is prohibited. This includes, but is not limited to, work before or after regular work hours, or work taken home.

CHAPTER 3: EMPLOYEE COMPENSATION AND BENEFITS

Job Classification

Job classifications with corresponding salaries have been established and adopted by City Administration and may be reviewed in the Human Resources Department. Subject to the level of municipal appropriations, salary increases recommended by the department head and approved by the Board of City Commissioners, may increase each year of employment until the employee has reached the maximum salary in the job classification plan. Salary adjustments are to be effective at the beginning of each year. The Board of City Commissioners is not obligated to give an annual salary increase, nor does any employee have the right to any automatic annual pay or step increase in subsequent years or upon completion of probationary period. See Chapter 2: Employment Status and Records – Position Reclassification.

Compensation Pay

The administration of salaries for each position is based on the philosophy of maintaining a competitive pay structure for the purpose of recruiting and retaining an effective workforce. Determination of appropriate compensation is based on the following principles:

- Provide compensation based on knowledge, skills and abilities for each job description.
- Regularly review the internal equity of positions, evaluating their job duties with the organization.
- Establish individual equity measures within the performance review process.
- Review classifications to ensure competitiveness with similar jobs within the local economy or applicable labor market, establishing ranges similar to that market.

Employee salary is the compensation for services performed and not a reward for seniority, longevity of service, promise to produce, or the ability to produce. Merit pay raises will be determined by the department head and approved at the discretion of City Administration and Human Resources. The salary structure defines the boundaries for making decisions regarding pay.

The salary structure is subject to revision each fiscal year, or as often as may be deemed necessary based on market changes and other management considerations.

Beginning Salary

A salary or rate of pay will be determined by City Administration and shall be appropriate for a new employee based on the employee's level of education and job-related experience.

Promotion/Newly Created Position/Transfer/Demotion

If an employee is promoted, transferred or demoted, their rate of pay for the new position shall be determined by the department head and Human Resources Director in accordance with appropriate job description and wage classification.

If an employee assumes a newly created position or assumes a position created by combining two or more positions, the City Administrator and Human Resources Director shall determine the class of the new position and the salary to be paid to the employee.

Employees who wish to transfer to a vacant or newly created position in their current department or another City of Williston department may request a transfer by completing a transfer application.

Transfer applications must apply to a specific position and specific department in order to be considered. Incomplete transfer applications will be returned to the employee.

A transfer application request will be reviewed by the employee's immediate supervisor or department head as well as Human Resources. Requests for transfers are not automatic and there is no obligation by the City to transfer employees to another department or position. Furthermore, a department head is not required to interview an internal candidate for any position. In all transfer application requests, the needs of the City as well as the department and the employee shall be considered. Employees shall begin a new probationary period with an approved transfer request effective on the date of transfer.

In cases of promotions, newly created positions, transfers and demotions, employees will begin a new probationary period not to exceed one (1) year for the purpose of determining the employee's qualifications and abilities to meet the job requirements. The department head shall determine the sufficient length of the probationary period. In the event the department head and Human Resources Director agree that the employee does not possess the necessary qualifications and abilities to meet the job requirements, an earnest effort shall be made to place the employee in other work for which the employee is better suited.

It is the employee's responsibility to check for open positions and updates, as they may change daily.

Wages

No employee will be paid less than the minimum wage as prescribed by the federal or state government, whichever is higher. Pay rates within the salary schedule will be reviewed by the Human Resources Director and presented to the Board of City Commissioners on a yearly basis coinciding with the City's budgetary process. Modifications to wages within that salary schedule may be based on cost of living adjustment (COLA), and/or market adjustment, as approved by the City of Williston Commissioners through the budget process.

Work Period

The work period for employees subject to 7(a) of the [Fair Labor Standards Act](#) (FLSA) shall be seven days beginning at 12:00 a.m. Sunday and ending at 11:59 p.m. Saturday.

The work period for employees subject to 7(k) of the [Fair Labor Standards Act](#) (FLSA) shall be established by the Williston Police Department and the Williston Fire Department.

Overtime

Overtime is defined as "all hours worked in excess of forty (40) hours per week". Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

Non-exempt employees may be required to work overtime whenever it is deemed necessary by their department head.

An employee entitled to overtime under the provisions of the [Fair Labor Standards Act](#) (FLSA) shall be compensated according to the provisions of that law.

With the exception of public safety employees, a non-exempt employee called back to work after having completed their regular day's work shall be paid at the overtime rate for a minimum of two (2) hours pay. Public safety employees will follow their departmental standard operating procedures for compensation and call-back procedures.

Each department, including public safety employees, has its own internal procedures for handling call-back services. Departments may establish guidelines for varying levels of response to call-back situations depending upon the nature and importance of the services to be completed. **Also see Chapter 2: Employment Status and Records - Residency Requirements section.**

Per [Fair Labor Standards Act](#) (FLSA), every employer must define the work week, a seven (7) day period of time. See **Chapter 3: Employee Compensation and Benefits - Work Period for additional information.**

Generally, except for Fire and Police Department shift employees, overtime pay for non-exempt employees is at a rate of 1-1/2 times the employee's regular hourly rate of pay for actual hours worked in excess of 40 hours within the defined workweek.

Scheduling and Working Overtime

All non-exempt employees must receive supervisor or department head prior written authorization before performing any unplanned overtime work. This means employees may not begin work prior to their scheduled work day and may not continue working beyond the end of their scheduled work day, without prior written authorization from the appropriate supervisor. Similarly, non-exempt employees may not work through their lunch break without prior authorization from the appropriate supervisor. The supervisor must approve any overtime before time is actually worked. Non-exempt employees who work overtime without receiving proper written authorization from their supervisor or department head will be subject to disciplinary action, up to and including termination of employment.

Time Worked

Approved paid absences, including but not limited to sick leave, vacation leave, holiday leave, personal leave, funeral leave, military leave, jury duty, and voting time off are counted as actual time worked for the purposes of computing overtime. Also see **Chapter 2: Employment Status and Records - Timekeeping for additional information.**

Late arrival or early departure from scheduled time worked must be accounted for. An employee must take accrued leave, if available, to account for any disparity or gap in time worked, unless the employee has a pre-approved alternate work schedule. See **Chapter 2: Employment Status and Records – Alternate Work Schedules.**

Compensatory Time (Non-Exempt)

With the exception of non-exempt full-time Fire Department employees working 2,996 hours per year and Police Department sworn officers, the City of Williston does not allow accrual of compensatory time by non-exempt employees.

Compensatory Time for Police Department (Sworn Officers Only)

Sworn police officers following a 28-day pay cycle may accrue compensatory time or overtime for hours worked in excess of 160 hours.

Sworn police officers following a 7-day pay cycle may accrue compensatory time or overtime for hours worked in excess of 40 hours per week.

Upon the request of the employee, overtime hours shall be compensated at either one and one-half (1½) times the employee's regular hourly rate of pay or one and one-half (1 ½) hours of compensatory time for each hour worked.

- Requests for compensatory time in lieu of overtime pay must be submitted before the end of the pay period earning the overtime;
- Compensatory time usage shall not impact on-duty staffing levels;
- Compensatory time maximum accrual is 60 hours;
- Compensatory time may be carried over from year-to-year;

Compensatory Time for Fire Department (Public Safety Retirement Plan)

Fire Department personnel, working full-time on 24-hour shifts and following a FLSA schedule of 2,996 hours per year, may accumulate compensatory time based on their hire date as follows:

- Fire Department personnel hired on or before December 31, 2018, working full-time on 24-hour shifts, may accrue a maximum of 480 hours;
- Fire Department personnel hired on or after January 1, 2019, working full-time on 24-hour shifts, may accrue a maximum of 280 hours;

Upon the request of the employee, overtime hours shall be compensated at either one and one-half (1½) times the employee's regular hourly rate of pay or one and one-half (1 ½) hours of compensatory time for each hour worked.

- Requests for compensatory time in lieu of overtime pay must be submitted before the end of the pay period earning the overtime;
- Compensatory time may be requested in twenty-four (24) hour increments or less;
- Compensatory time usage shall not impact on-duty staffing levels;
- Compensatory time may be carried over from year-to-year;
- Compensatory time requests shall be made using the annual leave request requirements as listed in the Fire Department S.O.G.

Fire Department personnel eligible for the Fire Department Public Safety Retirement Plan, working a standard year of 2,080 hours, do not qualify for compensatory time and hours worked beyond the standard 40-hour week will be paid at an overtime rate.

Flex Time for Police Officers (Sworn Officers only)

In situations where overtime payment is not feasible due to budgetary constraints, the department head may consider flexing the employee's work schedule in an effort to minimize the need for overtime compensation. Flexing shall be completed within a 28-day work cycle (for Police under the [207\(K\) exemption of FLSA](#)) that the overtime was worked and must be accurately reflected on the affected employee's time record.

Compensatory Time (Exempt)

Exempt employees are those who are exempt to the overtime requirements of the [Fair Labor Standards Act](#) (FLSA). Exempt employees are paid on a salary basis, regardless of the number of hours worked. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 45 hours in a workweek. Exempt employees are expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Exempt employees may accumulate compensatory time at an hour for hour rate for time worked beyond their standard work week of forty-five (45) hours not to exceed 180 hours annually. Compensatory time earned and used must be recorded on the regular time sheets, and all unused compensatory time shall be forfeited at the end of the year.

Call-Back

With the exception of public safety employees, a non-exempt employee called back to work after having completed their regular day's work shall be paid at the overtime rate for a minimum of two (2) hours pay.

Employees exempt from overtime are not eligible for compensation under the provisions of this section.

Each department has its own internal procedures for handling call-back services. Departments may establish guidelines for varying levels of response to call-back situations depending upon the nature and importance of the services to be completed. Also see Chapter 2: Employment Status and Records - Residency Requirements section.

Workers' Compensation

All employees are protected by workers' compensation against accidental injury or occupationally incurred illnesses in the performance of their official duties. This program covers an injury or illness sustained in the course of employment that requires medical treatment, subject to applicable legal requirements and workers' compensation guidelines. Workers' compensation insurance coverage begins immediately upon employment with the City.

Employees who sustain work-related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, the injury must be reported.

Neither the City nor the workers' compensation insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's participation in an off-duty recreational, social, or athletic activity sponsored by the City or for outside employment.

When absence is due to illness or injury for which workers' compensation time loss benefits are received, the injured employee's accumulated sick leave and/or vacation leave may be utilized to the extent of the difference between such benefits and the employee's regular salary. However, the employee's leave account shall only be charged that percentage of time which corresponds to the percentage of salary the City shall pay. Upon using all accumulated leave benefits, the employee may be placed on leave without pay, with the approval of City Administration, for the remainder of the recovery period.

Time off on workers' compensation leave will not be counted as actual time worked for the purposes of determining overtime.

Employees who have sustained a covered accident or illness may also be eligible for [Family and Medical Leave Act \(FMLA\)](#). FMLA will run concurrent with workers' compensation leave. See **Chapter 4: Family and Medical Leave Act for more information**. For additional information on workers' compensation, visit [North Dakota Workforce Safety and Safety](#).

Medical Treatment

In order to receive medical benefits under workers' compensation, accredited medical providers shall be used unless hospital emergency room treatment is necessary. For the most up-to-date list of accredited medical providers, please contact our Human Resources Department or the Safety Director.

Employee Group Benefits

The City of Williston offers a variety of insurance coverage and benefits to eligible employees. Benefit eligibility is dependent upon a variety of factors, including employee classification and the number of hours worked on a continual basis.

The following group benefits are available to eligible employees:

- Medical Insurance
- Life Insurance
- Dental Insurance
- Vision Insurance
- NDPERS Retirement Plan
- Deferred Compensation
- Flexible Spending Account
- Employee Assistance Plan (EAP)

For further information about these group benefits, please see a representative from the Human Resources Department.

COBRA

COBRA is a federal law that requires most employers who sponsor group health plans to offer employees and their families the opportunity to temporarily extend their group coverage at group rates in certain instances where coverage under the employer's group health plan would otherwise terminate. The employee is responsible for paying for the cost of any such continuation coverage.

Under COBRA, employees may elect COBRA continuation coverage for up to eighteen (18) months after termination of employment, or if an employee's hours are reduced to such an extent the employee no longer qualifies for participation in the group health plan. Under other circumstances, COBRA coverage is available for up to thirty-six (36) months following a qualifying event. Employees must notify the City of Williston within thirty (30) days of the occurrence of the employee's legal separation or divorce and of a covered dependent ceasing to qualify as a dependent under the medical plan.

Retirement

The City of Williston belongs to the [North Dakota Public Employees Retirement System](#) (NDPERS), which is governed by the State of North Dakota. Participation in the system is mandatory for all regular full-time employees and regular part-time employees working the number of hours required by [NDPERS](#). Employee contributions to [NDPERS](#) will be deducted from each pay check.

An employee must give written notice of intent to retire to his/her immediate supervisor no less than thirty (30) calendar days before the effective date of retirement. It is, however, encouraged to provide notice ninety (90) calendar days before the effective date of retirement. The retiring employee must indicate in the retirement intent notice the last day/shift/hour to be worked.

Eligibility for Enrollment

At the time employment begins, all eligible employees are enrolled in the [NDPERS](#) pension plan. Employees who work a minimum of twenty (20) hours per week for twenty (20) or more weeks of the year, are at least eighteen (18) years of age, and are filling a permanent position that is regularly funded and not of limited duration, must participate in the [North Dakota Public Employees Retirement System](#), unless they waived participation in writing when the City of Williston joined [NDPERS](#).

Contributions

Contribution rates and other policies of the City of Williston [NDPERS](#) retirement plan are determined by the Board of City Commissioners and are subject to change.

The Board of City Commissioners for the City of Williston reserves the right to change the [NDPERS](#) contribution rate at any time at the City's discretion upon majority vote. The current [NDPERS](#) retirement contribution rates are not intended to be a contract or terms of an employment contract.

Professional Membership

Membership costs for professional organizations or service memberships may be authorized at the discretion of the department head, within the constraints of the department budget, based on the added value to the organization.

Wage Garnishments

A wage garnishment is an order from a court or a government agency directing the City of Williston to withhold a certain amount of wages from an employee's paycheck and remit it to a person or agency. Wages can be garnished to pay child support, spousal support or alimony, tax debts, outstanding student loans, or money owed as a result of a judgment in a civil lawsuit.

All employers are required by law to accept garnishments against the wages of employees in satisfaction of legal judgments.

Child Support Reporting

Federal and state law requires the City of Williston to report basic information about new employees, including their name, address, and social security number, to the State of North Dakota. The State collects this information to enforce child support orders.

CHAPTER 4: LEAVES OF ABSENCE

Vacation Leave

All full-time employees shall be awarded vacation leave benefits beginning from the first day of the first calendar month of employment. An employee who is eligible for re-hire, will accrue vacation leave benefits based upon their most recent hire date.

Requests for vacation shall be submitted to the department head for approval as far in advance as possible. Vacation leave shall be granted in quarter-hour (1/4) units.

Vacation Leave credits for employees working less than eight (8) hours per day or part-time employees working an established schedule of twenty (20) or more hours per week are eligible for vacation leave benefits on a pro-rated basis based on the number of hours actually worked.

Seasonal employees, part-time Fire Department personnel, paid on-call fire, and temporary employees are not eligible for vacation leave benefits.

Credits for employees other than Fire Department personnel on 24-hour shifts are earned as follows:

Months/Years of Service	Hours earned per Month
1 - 60 months (1 st – 5 th years)	8
61 - 120 months (6 th – 10 th years)	10
121 - 180 months (11 th – 15 th years)	12
181 - 240 months (16 th – 20 th years)	14
241 + months (21 st year and over)	16

Credits for full-time Fire Department personnel on 24-hour shifts and working 2,996 hours per year, are earned as follows:

Months/Years of Service	Hours earned per Month
1 - 48 months (1 st – 4 th years)	12 hours
49 - 108 months (5 th – 9 th years)	16 hours
109 - 168 months (10 th – 14 th years)	20 hours
169 + months (15 th year and over)	24 hours

Vacation Leave Carry Over

Except for full-time Fire Department personnel on 24-hour shifts and working 2,996 hours per year, 240 vacation hours may carry over from one calendar year to the next. Vacation leave hours, earned throughout the calendar year, in excess of 240 hours, must be used on or prior to December 31st of the current year. Any unused vacation leave hours beyond 240 hours will be forfeited on January 1st of the following year. For the purposes of this section, calendar year is defined as January 1st to December 31st.

Full-Time Fire Department personnel on 24-hour shifts and working 2,996 hours per year, may carry 288 vacation leave hours over from one calendar year to the next. Vacation leave hours, earned throughout the calendar year, in excess of 288 hours, must be used on or prior to December 31st of the current year. Any unused vacation leave hours beyond 288 hours will be forfeited on January 1st of the following year. For the purposes of this section, calendar year is defined as January 1st to December 31st.

No employee shall waive vacation leave and receive double compensation in lieu thereof.

Employees who become ill during vacation leave may request the time be charged to sick leave with a doctor's statement.

Unpaid Leave Status

An employee in unpaid leave status does not accrue paid vacation leave while on unpaid leave, nor does this status constitute a break in service for vacation leave accrual rate purposes. An employee returning to work from unpaid leave status will resume paid vacation accruals based upon their length of service.

Scheduling and Using Accrued Leave

Employees must submit a request for vacation leave by entering the information into the Kronos/UKG system, and dependent on departmental procedures, in writing, via email or leave request form, to their supervisor for vacation leave in advance of taking leave. Each department shall set, based on operational and scheduling needs, how far in advance requests should be made. Approval will be made based on a number of factors including staffing needs and staffing requirements. Excluding shift personnel, paid holidays occurring while an employee is on approved vacation will not be charged vacation leave.

Although employees may request vacation leave prior to accrual, vacation leave must be earned prior to usage. Based upon vacation leave balances, prior approved requests may be cancelled due to an insufficient leave balance.

Payment upon Separation

Employees will be paid for unused, earned vacation leave, through their last day of work. In no circumstance, shall an employee be paid more than the maximum carry over amount upon retirement or resignation.

Sick Leave

The City of Williston provides paid sick leave benefits to eligible employees for periods of temporary absence due to illness or injury of the employee or immediate family member, as defined below in this section.

Accrual

All full-time employees shall accrue sick leave benefits from the first day of the first month after their employment begins. For full-time employees, eight (8) hours credit shall be earned for each full month of service, with the exception that Fire Department personnel on 24-hour shifts, working 2,996 hours per year, shall earn twelve (12) hours credit for each full month of service.

Part-Time employees working an established schedule of twenty (20) or more hours per week are eligible for sick leave benefits on a pro-rated basis, based on the number of hours actually worked.

Sick Leave shall not be used in advance of accrual.

Accumulation

For employees hired before December 31, 2018, each calendar year during the month of January, the excess of the employee's accumulated sick leave account beyond the amounts designated below, shall be paid to the employee at an amount equal to one-half of the pay for an equivalent period of leave, and the employee's accumulate balance shall be reduced to the amounts designated below.

There will be no contribution to any retirement plan based on this payment:

- Full-Time Fire Department personnel on 24-hour shifts, working 2,996 hours per year, may carry over 480 hours of sick leave from one calendar year to the next;
- All other full-time employees may carry over 480 hours of sick leave from one calendar year to the next.

Seasonal, part-time fire, paid on-call fire, and temporary employees are not eligible for sick leave benefits.

Uses of Sick Leave

Sick Leave may be used for illness or injury of the employee or member of the employee's immediate family which requires the attendance of the employee as follows:

- **Personal Illness:** Permissible uses of sick leave are personal illness, injury, and routine doctor appointments that cannot be reasonably scheduled during non-working hours.
- **Family Illness:** Employees may use sick leave when necessary for the care of an ill or injured parent, spouse, or child as defined below.

Immediate Family Definitions

Child: A biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in place of a parent who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care (a biological or legal relationship is not necessary).

Parent: The biological parent or legal guardian of an employee or an individual who stood in as a parent to an employee.

Spouse: A husband or wife as defined or recognized under state law for purposes of marriage.

Examples of Uses of Sick Leave

Examples of uses of sick leave may include, but is not limited to the following:

- Serious illness or injury of the employee's immediate family when such illness requires lengthy hospitalization with approval from Human Resources.
- Hospital visits to the employee's immediate family member(s) during an emergency. Non-emergency and/or regular visits to hospital's are to be taken on the employee's own time and do not qualify for sick leave benefits.
- Dental, eye, medical, and clinic appointments of the employee or any member of the employee's immediate family which requires the attendance of the employee.
- Elective surgery of the employee or member of the employee's immediate family at a time approved by the employee's department head or Human Resources Director.

- Treatment for addictions for the duration of inpatient or institutional inpatient treatment at a recognized treatment facility or rehabilitation facility and only to the extent that the employee has sick leave or FMLA available for use.

Sick leave absences of three (3) consecutive days or more, or due to an ongoing medical condition, for either a personal illness or a family illness as defined above may be subject to FMLA. The process to determine FMLA eligibility will be initiated by Human Resources and further documentation may be required. **Please see Chapter 4: Leaves of Absence – Family and Medical Leave Act (FMLA) for further information.**

Scheduling and Using Leave

Employees who are unable to report to work due to illness or injury must notify their immediate supervisor before the start of the work day or as may be prescribed by department policy. The immediate supervisor must also be contacted on each additional day of absence, unless absence is due to an extended illness as documented by a doctor or FMLA paperwork.

Sick leave may be used and reported in quarter-hour (1/4) units.

The City may, at any time, require an employee to provide a physician's proof of personal illness or illness of an immediate family member, as defined in this section, upon claim of sick leave. To be compliant with HIPAA regulations, only Human Resources will be allowed to obtain physician documentation and may be shared with leadership only on a need-to-know basis. Employees should be directed to Human Resources to discuss and provide the requested information.

A physician's statement of release is required before returning to work after any surgery or procedure when treatment, recovery, including prescribed medication, could interfere with or impair job performance. Supervisors may request a physician's note of release if absence is continuous for more than three (3) working days.

At the discretion of the supervisor, employees who are deemed unable to satisfactorily perform their job due to illness or injury may be sent home by their supervisor with loss of sick leave.

In cases where a holiday occurs during an employee's scheduled and approved sick leave, the employee shall be paid a holiday pay and their leave account shall be extended one (1) day in lieu of the paid holiday. Excluding shift personnel, paid holidays occurring while an employee is on approved sick will not be charged sick leave.

Misuse of Sick Leave

The misuse of the sick leave benefit is grounds for disciplinary action up to and including termination. The misuse or abuse of sick leave is characterized by a pattern of behavior, such as, but not limited to the following examples:

- Misrepresenting a physical illness in order to use sick leave;
- Falsifying healthcare provider notices or reports;
- Frequent patterns of sick leave use such as using sick leave before or after holidays, or Mondays and Fridays;
- Using sick leave as it accrues.

Payment upon Separation

Upon resignation or retirement, employees hired on or before December 31, 2018, shall be paid one-half (1/2) of the employee's unused accumulated sick leave, providing the employee leaves in good standing. In no circumstance, shall an employee be paid more than one-half (1/2) of the maximum carry over amount of 480 hours upon retirement or resignation. There will be no contribution to any retirement plan based on this payment.

Employees hired on or after January 1, 2019, are not entitled to payment for unused, earned sick leave.

Holidays

Holidays will be available to all eligible employees immediately upon hire.

Observed Holidays

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Veteran's Day
Good Friday	Thanksgiving Holiday (Thursday and Friday)
Memorial Day	Christmas Day
Juneteenth	

In addition to the above listed observed holidays, any day declared by the President of the United States, the Governor of the State of North Dakota, or by the Board of City Commissioners will be observed as a public holiday.

Holiday Pay for Regular and Part-Time Employees

Regular full-time and part-time employees will be paid holiday pay at their regular rate of pay for the regularly scheduled hours they would have worked had the holiday been a regular work day. Employees will receive pay for a holiday, if they are either at work or on an approved paid leave status on both the work day before and the work day after the date on which the holiday is observed.

Some employees may be required to work on an observed holiday in order to maintain essential services to the City and shall follow departmental operating procedures for holidays and holiday pay.

No employee is eligible for holiday pay if they have been absent without paid leave or on leave of absence from work on either the working day before or the working day after the designated holiday.

Part-Time employees' holiday pay benefit shall be pro-rated based on the number of hours actually worked.

Seasonal employees, part-time fire, paid on-call fire, and temporary employees are not eligible for any holiday pay.

Holiday Pay for Employees Working Shift-Work or Alternative Work Schedules

Shift Worker or Alternative Work Schedules: Employees working shift work or alternative work schedules will receive credit for the observed holiday at their regular rate of pay. Holiday credit hours are departmental specific and determined by Human Resources. Employees in this classification of work, and assigned to work on the observed holiday, will be paid for their scheduled hours in addition to the holiday credit.

Some employees may be required to work on an observed holiday, in order to maintain essential services to the City, and shall follow departmental operating procedures for holidays and holiday pay.

Fire Department personnel on 24-hour shifts, working 2,996 hours per year, are not eligible for holiday pay.

No employee is eligible for holiday pay if they have been absent without paid leave or on leave of absence from work on either the working day before or the working day after the designated holiday.

Part-Time employees' holiday pay benefit shall be pro-rated based on the number of hours actually worked.

Seasonal employees, part-time fire, paid on-call fire, and temporary employees are not eligible for any holiday pay.

Holidays for Williston Community Library Staff

In the event a holiday occurs when the Williston Community Library remains open to the public, employees working a customary schedule of 20 hours or more per week and required to work on said holiday, shall receive pro-rated holiday benefits based on the number of hours actually worked.

Holidays on a Day Off

On the Weekend: When any designated holiday falls on a Sunday, the following Monday shall be observed as the holiday. When any designated holiday falls on a Saturday, the preceding Friday shall be observed as that holiday.

During Vacation Leave: Holidays that occur during a scheduled paid vacation time will be paid as holidays and will not be charged as a vacation day. **Shift Worker or Alternative Work Schedules** see Chapter 4: Leaves of Absence – [Holiday Pay for Employees Working Shift-Work or Alternative Work Schedules](#).

During Sick Leave: An employee on FMLA approved leave will receive holiday pay in accordance with this section. **Shift Worker or Alternative Work Schedules** see Chapter 4: Leaves of Absence – [Holiday Pay for Employees Working Shift-Work or Alternative Work Schedules](#).

Due to Suspension: If an employee is suspended without pay on the previous day, day of, or day after the observed holiday, the employee is not eligible for a paid holiday.

Due to Job Related Absence: If an employee is off due to a workers' compensation injury, the employee will receive holiday credit when they return to work.

Personal Leave

Every full-time employee shall be entitled to one (1) non-accumulative personal day per year. Unused personal leave does not carry over from year-to-year and shall be used before December 31st of each year.

Personal leave hours are departmental specific and determined by Human Resources. New hire personal leave hours are pro-rated based upon the employee's start date. In no circumstance may an employee earn more than one (1) personal day per year.

Personal leave credits for employees working less than eight (8) hours per day shall be pro-rated, based upon the number of hours the employee is working.

Seasonal employees, part-time fire, paid on-call fire, and temporary employees are not eligible for personal leave benefits.

Funeral Leave

Actively working full-time employees shall be allowed a maximum of twenty-four (24) hours as leave of absence with pay due to a death in the employee's immediate family. Part-time employees shall receive pro-rated funeral leave benefits based on the number of hours actually worked.

Immediate family for the purposes of this section shall be defined as:

Spouse, domestic partner, parents, step-parents, parents-in-law, sisters, brothers, sister/brother-in law, step-brothers, step-sisters, children, step-children, grandchildren, step-grandchildren, grandparents, grandparents-in-law, or any relative at the discretion of the department head and Human Resources.

Employees may, with supervisor approval, use available vacation leave for additional time off needed in the event of a death.

Seasonal employees, part-time fire, paid on-call fire, and temporary employees are not eligible for funeral leave benefits.

Jury Duty

Upon proper notification, the City of Williston provides paid leave of absence to actively working full-time, full-time seasonal or part-time employees for the following required court appearances:

- Jury Duty;
- Appearance before a court, legislative committee or other body as a witness in a proceeding involving the federal government, the state of North Dakota, or a political subdivision thereof in response to a subpoena or other direction by proper authority, or
- Attendance in court in connection with the employee's official duties.

If an employee is subpoenaed to testify due to the employee's own criminal or civil court matter, paid jury duty leave of absence will not apply.

Employees must submit the jury summons, subpoena documentation or any other official summons or documentation provided by the court to their supervisor.

The employee's compensation from the City during such leave of absence shall equal the difference between the employee's regular salary and compensation of jury duty. However, if an employee is on authorized personal or vacation leave while performing jury duty, the employee may retain the fee paid by the court and the employee's pay may not be reduced. In the event the employee is not chosen for jury duty, the employee is expected to return to work to complete their regularly scheduled shift.

Jury duty leave is paid at the employee's base rate at the time of leave and included as actual hours worked toward overtime calculation in the FLSA period.

Seasonal employees, part-time fire, paid on-call fire, and temporary employees are not eligible for jury duty leave benefits.

Military Leave

Definition:

Calendar Year: This policy defines a calendar year from January 1st to December 31st, of any given year.

Firefighter: For the purpose of this policy, firefighter includes the rank of firefighter, fire captain, fire battalion chief, or any employee working for the Fire Department for an amount of 2,996 hours per year.

Routine

Active Duty: Any function associated with Orders.

Military Leave Policy:

The City of Williston policy states, an employee who is in the National Guard or Armed Forces Reserves and is ordered to active duty shall be granted military leave annually, in accordance with Sections [NDCC 37-01-25](#) and [NDCC 37-01-25.1](#) of the North Dakota Century Code for full-time employees who:

- are members of the National Guard;
- are members of the Armed Forces Reserves of the United States of America;
- shall be subject to be called into federal service by the President of the United States; or
- shall volunteer for such service.

When ordered by proper authority to active non-civilian employment, the employee is entitled to a leave of absence from Civil Service without loss of status or efficiency rating. If such employee has been continuously employed for ninety (90) days immediately preceding the leave of absence, they are eligible to receive up to twenty (20) days leave of absence (160 hours) or 230 hours leave of absence for firefighters, each calendar year without loss of pay.

During a full or partial mobilization of the Reserve and National Guard Forces, the employee is entitled to thirty (30) days (240 hours) or 345 hours for firefighters, leave of absence with pay, less any paid leave of absence previously granted during the calendar year, pursuant to this section. Leave shall be granted only for scheduled work hours missed for qualifying military duty.

The implementation of the policy for military leave is summarized as follows:

Routine Active Duty, (i.e., annual two-week training):

When ordered by proper authority to active non-civilian employment, the employee is entitled to a leave of absence from Civil Service without loss of status or efficiency rating. If such employee has been continuously employed for ninety (90) days immediately preceding the leave of absence, they are eligible to receive up to twenty (20) days leave of absence (160 hours) or 230 hours leave of absence for firefighters, each calendar year without loss of pay.

For the purposes of this section, travel time to routine active duty shall not be considered part of the twenty (20) days leave of absence (160 hours) or 230 hours leave of absence for firefighters. Employees may use accumulated vacation leave, personal leave, accumulated comp time (if applicable), Kelly time (if applicable), be given an opportunity to reschedule hours, arrange a work trade (shift swap), or take administrative leave without pay for travel time to or from routine active duty. Employees choosing to reschedule hours or choosing to arrange a work trade (shift swap) must reschedule hours or trade work hours within the same two-week pay period.

After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.

No employee is eligible for holiday pay, while using military leave, if they have been absent without paid leave or on leave of absence from work on either the working day before or the working day, after the designated holiday.

Mobilizations for Active Duty:

Any leave of absence necessitated by a full or partial mobilization of the Reserve and National Guard Forces of the United States of America, or emergency state active duty, must be without loss of pay for the first thirty (30) days thereof less any other paid leave of absence granted during the calendar year pursuant to [NDCC 37-01-25](#). For example, if an employee completes a two-week active duty training in June and then gets called to active duty, necessitated by a full or partial mobilization of the Reserve or Guard, in July, the employee is eligible to receive up to thirty (30) days paid leave (240 hours) or 345 hours paid leave for firefighters, less any hours for which the employee had already been compensated for active duty training during that calendar year.

If an employee is on active duty and uses all available compensated military leave available for the active duty assignment, the employee may:

- use accumulated vacation leave;
- use personal leave;
- use accumulated comp time (if applicable);
- use Kelly time (if applicable);
- be given an opportunity to reschedule hours;
- arrange a work trade (shift swap);
- take administrative leave without pay.

Travel time for mobilizations of Active Duty is not considered part of the thirty (30) days paid leave (240 hours) or 345 hours for firefighters. Employees may use accumulated vacation leave, personal leave, accumulated comp time (if applicable), Kelly time (if applicable), be given an opportunity to reschedule hours, arrange a work trade (shift swap), or take administrative leave without pay for travel time to or from mobilizations of Active Duty. Employees choosing to reschedule hours or choosing to arrange a work trade (shift swap) must reschedule hours or trade work hours within the same two-week pay period.

After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.

No employee is eligible for holiday pay, while using military leave, if they have been absent without paid leave or on leave of absence from work on either the working day before or the working day, after the designated holiday.

Active Duty includes contingency training and annual training for National Guard and the Reserves but does not include regular drills or any duty considered not active duty.

Weekend, Daily, or Hourly Drill or Training Periods (Not Active Duty):

If leave is required for weekend, daily or hourly periods of drill for military training on a day in which a public officer or employee is scheduled to perform the work of the state or of a political subdivision, if such employee has been continuously employed for ninety (90) days immediately preceding the leave of absence, they are eligible to receive up to twenty (20) days leave of absence (160 hours) or 230 hours leave of absence for firefighters, each calendar year without loss of pay.

If an employee uses all available compensated military leave available for the assignment, the employee may:

- use accumulated vacation leave;
- use personal leave;
- use accumulated comp time (if applicable);
- use Kelly time (if applicable);
- be given an opportunity to reschedule hours;
- arrange a work trade (shift swap);
- take administrative leave without pay.

Travel time for weekend, daily, or hourly drill or training periods (not Active Duty) is not considered part of the twenty (20) or thirty (30) days paid leave (160 hours or 240 hours) or 230 or 345 hours for firefighters. Employees may use accumulated vacation leave, personal leave, accumulated comp time (if applicable), Kelly time (if applicable), be given an opportunity to reschedule hours, arrange a work trade (shift swap), or take administrative leave without pay for travel time to or from weekend, daily or hourly drill or training periods (not Active Duty). Employees choosing to reschedule hours or choosing to arrange a work trade (shift swap) must reschedule hours or trade work hours within the same two-week pay period.

After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.

No employee is eligible for holiday pay, while using military leave, if they have been absent without paid leave or on leave of absence from work, on either the working day before or the working day, after the designated holiday.

The department may contact the employee's National Commanding Guard or Reserve Officer to inquire about adjusting the National Guard or Reserve's training schedule to accommodate departmental needs in unusual circumstances.

Notification:

Military members are required to present a copy of their military orders to their department head and Human Resources Department, before taking military leave or at the earliest date a copy of the order becomes available. Military members may elect to use accumulated vacation leave, personal leave, accumulated comp time (if applicable), or Kelly time (if applicable) in lieu of leave without pay. Military members in a leave without pay status will retain their years of service rights and accumulated benefits but will not earn additional benefits during their leave of absence.

The military member may elect to continue employer-sponsored health insurance coverage by making payment of required insurance premiums. The City may elect to continue payment of the City's portion of health and life insurance premiums for employees who are involuntarily mobilized to State or Federal Active Duty for a period up to six months.

The City will abide by the [Uniformed Services Employment and Re-employment Rights Act](#) (USERRA).

Administrative Leave

An employee may be placed on administrative leave pending the outcome of any related administrative review, investigation, and/or the imposition of management action.

Written notice of administrative leave shall be provided to the employee.

Employees placed on administrative leave must comply with the following guidelines:

- Be available by phone during regular business hours;
- Refrain from any conversation or contact with City of Williston employees regarding the administrative leave and its guidelines;
- Provide access to city computer and/or city cell phone;
- Unless on business with the City, the employee may be asked to refrain from being on city premises or entering city facilities, contingent upon the circumstances;

- Other reasonable terms or conditions may be ordered in connection with any investigation, review, or inquiry.

Administrative leave may be paid at the discretion of City Administration.

Failure to comply with the aforementioned guidelines may result in immediate disciplinary action, up to and including termination.

Voting Leave

All employees are urged to vote in all municipal, state, and federal elections. If specific individual circumstances make it difficult for an employee to vote during non-working hours, the employee should receive permission from the immediate supervisor or department head to take time off for voting.

Family and Medical Leave Act (FMLA)

The [Family and Medical Leave Act](#) (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to twelve (12) work-weeks of leave in a 12-month period for:

- The birth of a child and to care for the newborn child within one (1) year of birth;
- The placement of the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement;
- To care for the employee's spouse, child, or parent who has a serious health condition;
- A serious health condition that makes the employee unable to perform the essential functions of their job; or
- Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty," or
- Twenty-six (26) work-weeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

Eligible Employees

Only eligible employees are entitled to take FMLA leave. An eligible employee is one who:

- Works for a covered employer;
- Has worked for the employer for at least twelve (12) months as of the date the FMLA is to start;
- Has at least 1,250 hours of service for the employer during the twelve (12) month period immediately before the date the FMLA leave is to start;
- Works at a location where the employer employs at least fifty (50) employees within seventy-five (75) miles of that worksite as of the date when the employee gives notice of the need for leave.

The FMLA also provides certain military family leave entitlements. Eligible employees may take FMLA leave for specified reasons related to certain military deployments of their family members. Additionally, they may take up to twenty-six (26) weeks of FMLA leave in a single twelve (12) month period to care for a covered servicemember with a serious injury or illness. For more information, see the FMLA [employee guide](#).

Returning to Work

When the employee returns to work from FMLA leave, the employer must restore the employee to the same job or one that is nearly identical (equivalent).

If not returned to the exact same job, the new position must:

- Involve the same or substantially similar duties, responsibilities, and status;
- Include the same general level of skill, effort, responsibility and authority;
- Offer identical pay, including equivalent premium pay, overtime and bonus opportunities;
- Offer identical benefits (such as life insurance, health insurance, etc.); and
- Offer the same general work schedule and be at the same (or a nearby) location.

The single twelve (12) month period for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. See [FMLA Fact Sheet 28F: Qualifying Reasons under the FMLA](#) and [28M: The Military Family Leave Provisions under the FMLA](#).

Military Family Leave

The FMLA has been expanded to provide family and medical leave due to a call to active military duty. The FMLA entitles an eligible employee of a covered employer to take up to twelve (12) work-weeks of unpaid, job-protected qualifying exigency leave. The leave is available for employees whose spouse, son, daughter or parent is in the Regular Armed Forces and deployed to a foreign country or in the National Guard or Reserves and deployed to a foreign country in support of a contingency operation.

Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.

The FMLA also entitles an eligible employee of a covered employer to take up to twenty-six (26) work-weeks of military caregiver leave in a single twelve (12) month period to care for a covered servicemember with a qualifying serious injury or illness incurred or aggravated in the line of duty on active duty. The employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember.

A covered servicemember is either:

- A current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness; or
- A veteran of the Armed Forces (including the national Guard or Reserves) who was discharged or released under conditions other than dishonorable within the five (5) year period before the family member first takes military caregiver leave to care for the veteran, and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness.

Employee Notification

An employee should give at least thirty (30) days' notice for the need to take foreseeable FMLA, unless the need is unforeseeable, in which case, as much notice as possible should be given. A form for requesting FMLA is available in the Human Resources Department.

Failure to provide notice as required under this section may result in disciplinary action, up to and including termination.

Department Notification

Each department head is responsible for notifying the Human Resources Department immediately when an employee is away from work for a FMLA qualifying event, even if the employee is utilizing paid vacation or sick time or is out due to a work-related injury.

Substitution of Paid Leave

The City of Williston reserves the right to substitute or use the employee's paid vacation or sick leave days for any or all of the family or medical leave.

Workers' Compensation

In cases where the employee is eligible for workers' compensation benefits, FMLA shall run concurrently.

Medical Certification

The City of Williston may require medical certification from a health care provider to support a claim for leave to care for a seriously ill child, spouse, or parent, or for the employee's own serious health condition. Medical certifications must be returned to the Human Resources Department within fifteen (15) working days. Recertification may also be required every 30 days. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. For the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position, and the expected duration of the condition. The City does not seek and should not be provided genetic information. If an employee's or applicant's genetic information is inadvertently received by the City, the City will return it to the health care provider and will not use it for any employment decision or action.

Upon returning to work after leave for the employee's own illness, an employee is required to provide certification that they are able to return to regular duties. If the validity of a certification is questioned, the City may require that a second opinion be obtained. If the first and second opinions differ, the City may require a third opinion be obtained.

Return to Work

When an employee returns to work after FMLA leave, the employee shall be restored to the same position or to an equivalent position involving the same or substantially similar duties and responsibilities.

Continuation of Insurance Benefits

While utilizing unpaid FMLA leave, an employee's insurance benefits will continue without interruption as long as the employee pays his or her portion of the insurance premiums. Insurance premiums can be deducted from the paycheck before leave begins, or during the leave, if the employee continues to receive pay.

If an employee does not return to work from approved FMLA leave, the City may recapture the healthcare premiums paid on behalf of the employee during the FMLA leave.

Outside Employment

Outside employment must be suspended if the employee is on restricted duty, workers' compensation, sick leave, or FMLA leave (if it is due to employee's own serious illness or injury).

Periodic Contact with Supervisor

While on FMLA leave, of more than one pay period, employees are required to report weekly to their supervisor regarding the status of their leave and their intent to return to work. The method (i.e., text message, phone call, email, etc.) of contact with the supervisor shall be discussed with the employee prior to the FMLA leave.

CHAPTER 5: STANDARDS OF CONDUCT

Summary

The City is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City expects all relationships in the workplace to be business-like, free of bias, prejudice, and harassment. The policies and procedures of the City of Williston shall guide the conduct of all employees. Any employee violating standards of conduct shall be subject to disciplinary action, including reprimand, suspension, demotion, transfer, termination, forfeiture of leave, loss of pay, or any one or more of the foregoing penalties.

The City reserves the right to waive or change any of the foregoing policies and procedures, if it deems to be in the best interest of the City of Williston.

Each employee shall strive to conduct themselves in a manner fitting of a public representative for the organization. They shall use tact and patience in their official duties while adhering to all laws and local ordinances. They shall be civil, courteous, and obliging, and refrain from the use of profane, abusive, or obscene language. All employees are expected to maintain acceptable standards of conduct, efficiency, and economy, in the performance of their work for the City.

All employees shall report to work on time, use their available working hours to the best advantage, and leave only after their regular working hours. Performing personal work on City time shall not be allowed. They shall not divulge to, or discuss with any person outside of the City, anything pertaining to its intimate affairs or operation. They shall faithfully and promptly follow the directive of their supervisors.

It is the policy of the City to prohibit the use, sale, dispensing of, or possession of illegal drugs, narcotics, and alcoholic beverages on its premises or in any public building, excluding any special events for which the use, sale, and dispensing of alcoholic beverages has been properly licensed for or for which the Board of City Commissioners has authorized. No employee shall report to work under the influence of drugs, narcotics, or alcohol. Any employee found to be under the influence shall be escorted home and shall be subject to disciplinary action. The Board of City Commissioners has adopted the City of Williston Substance Abuse Policy, which shall be considered a part of the City of Williston Employee Handbook. Every employee shall read and become familiar with the Substance Abuse Policy.

It is the policy of the City of Williston not to discriminate on the basis of race, color, national origin, sex, or handicap in its programs/activities and employment policies/practices. All employees are expected to practice this policy of equal opportunity employment and non-discrimination in the performance of their duties.

The standards listed in this section for the City of Williston is not a contract. It does not convey any specific employment rights or guarantee employment for any specific period of time.

Code of Conduct

The purpose of this section is to provide guidance to employees for appropriate personal conduct in the workplace. Adherence to workplace rules and policies are an important responsibility for all staff in order to ensure fair treatment and a professional, courteous environment.

As a municipal government entity, City of Williston employees are encouraged to bear in mind that conduct both on, and off the job, affects the image of the entire City in the eyes of the public. This section shall provide guidelines for dealing with a variety of employer/employee issues to ensure proper conduct and policies are respected. This section is not intended to cover all aspects of employee conduct. In the absence of a written policy, please contact your supervisor or the Human Resources Department with questions.

It is the goal of the City of Williston to maintain a safe, respectful, and productive environment for employees and the general public. Harassment and threatening or violent behavior is prohibited. All employees and members of the public shall be treated professionally, with dignity and respect.

Acceptable standards of conduct shall be maintained both on and off duty. City staff are expected to conduct themselves in a professional and respectful manner at all times. While it is not the intent of the City to regulate behavior, after-hours conduct may still have an impact on the reputation of our organization. Incidents involving the violation of any laws, local ordinances, or statutes may result in disciplinary action.

An employee shall not engage in any conduct prohibited by law, or any political subdivision wherein the conduct of the employee occurred. Conduct in violation of such laws may be cause for disciplinary action without regard to whether charges are filed or prosecuted.

An employee shall be courteous to the public and fellow employees. An employee's conduct shall be civil, orderly, and courteous. Employees are encouraged to abide by the Golden Rule: **treat others in the way you would like to be treated**. This includes giving careful thought before making any statements to the public or other staff and apologizing for any offensive behavior or remarks. An employee shall, at all times, refrain from using coarse, violent, profane, and insolent language. Harassment, including unwanted sexual contact and jokes, is specifically prohibited, along with bullying, which is defined as abusive speech, intimidation, spreading rumors and taking credit for the work of others.

No employee is at work 24 hours per day, seven days per week, as such there may be times when management needs access to communications or records maintained by employees in their individual workplaces. Personal communications received or stored on city property are not entitled to a guarantee of privacy. Management may require access to city property and documents, including those stored in city-owned vehicles, desks, lockers, file cabinets, electronic devices, and computers.

Staff are reminded that assigned electronic and mobile devices are the property of the City of Williston, along with any created files or documents downloaded, or stored on these devices. Unauthorized programs, files or materials may not be used or stored on city property. Employees may not encrypt work and may not use passwords other than those approved by the City. Employees may not destroy or delete files from city computers or mobile devices, except pursuant to the City's record retention policy.

The following materials and activities are not allowed by this policy:

- Accessing, transmitting or knowingly receiving material the City considers to be pornographic, obscene, or promoting any form of prejudice;
- Conducting business for outside employer or a side business;
- Purchasing of goods or services for personal use, either online or in person;
- Recruiting or soliciting others for non-work related purposes;
- Unwanted religious harassment or solicitation.

The City reserves the right to inspect and search any city-owned property in the event of an incident, including, but not limited to lockers, desks, computers, trucks, and mobile devices. The City will act in accordance with the law and will submit any materials requested by law enforcement.

Any materials, files, documents, electronic tools, or other items collected or created by an employee in connection with their employment remain the property of the City. Additionally, all material created, transmitted/sent, received, deleted, downloaded, or stored using electronic tools are and remain the property of the City. For the purposes of this section, property of the City includes creations of the mind, such as inventions, literary and artistic works, and symbols, images, names, and logos. Employees have no expectation of privacy when using city property or in any work performed in association with the City of Williston or on city-owned equipment and/or devices.

No employee may fail to promptly deliver any evidence, abandoned property, or confiscated property to the proper authority, as designated by department procedure or city regulation. An employee may not convert to personal use, destroy, or remove, except in accordance with established departmental procedure, any property found in connection with official business. No employee is authorized to keep or claim such evidence or property.

No employee shall steal, sell, willfully or negligently damage, destroy, misuse, lose, or have unauthorized possession of owned or leased city property, or use any city property, services, or information in an unauthorized manner for monetary gain.

The conduct listed in this section for the City of Williston is not a contract. It does not convey any specific employment rights or guarantee employment for any specific period of time.

Disciplinary Action

All employees of the City of Williston shall comply with certain standards of behavior and performance. Non-compliance with these standards will be corrected by means of disciplinary action in a manner protecting the dignity of employees, while ensuring standards of conduct are upheld. Disciplinary action is considered a dimension of performance management and employee development. It is a corrective process to help employees overcome work related shortcomings, strengthen work performance, and achieve success.

Disciplinary action may be implemented for an employee's failure to maintain minimum performance standards, as a response to employee misconduct, or for an employee who is experiencing a series of unrelated problems involving job performance or behavior. Unrelated performance problems may be considered separately, unless deficiencies have a cumulative effect on the employee's overall performance.

Consultation with Human Resources

Supervisors are encouraged to consult with their Human Resources Coordinator, Assistant Human Resources Director or Human Resources Director for counseling and verbal reprimands. Supervisors are required to consult with their department head, Human Resources Coordinator, Assistant Human Resources Director or Human Resources Director for written reprimands, suspensions, demotions, terminations, and any allegations involving race, color, national origin, religion, age, sex, sexual orientation, gender identity or expression, physical or mental disability including pregnancy, marital status, genetic information, equal pay, veteran's status, or other unlawful behavior.

Employee Discipline

In many instances, the City of Williston may use a disciplinary system. The City is not obligated to use all the disciplinary steps as listed below, nor to use them in the order in which they are listed. Based upon the severity of the conduct, the employee's work performance, prior disciplinary history, the employee's length of service, and any mitigating circumstances, the City may begin the disciplinary process at any level, up to and including immediate termination. At-will employment status is not affected by the use of the employee discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- **Counseling:** An informal discussion between a supervisor and employee about the need to improve performance problems or as a reminder of a procedure or process.
- **Verbal Warning:** A verbal warning is verbal instruction from the supervisor to the employee about the need to improve performance or about a violation of a procedure or process. Even though the instruction is verbal, this level of discipline must still be documented, shared with the employee, and included in the employee's personnel file.
- **Written Reprimand:** A written reprimand is a written warning from the supervisor to the employee about the need to improve performance or about a violation of a procedure or process. The written reprimand must be documented, shared with the employee, and included in the employee's personnel file.
- **Suspension – Leave with or without Pay:** A suspension with or without pay is a relief from duty for a period of time, determined by the supervisor and Human Resources Department, based on the severity of the incident.

Determination of leave, with pay or without pay, shall be determined by City Administration. A suspension shall be documented, shared with the employee, and included in the employee's personnel file.

- **Demotion:** A demotion is a reduction in rank or classification consistent with a deficiency or violation of a procedure or process. A demotion must be documented, shared with the employee, and included in the employee's personnel file.
- **Termination:** A termination is an involuntary separation of the employee from city employment. A termination must be documented, shared with the employee, and included in the employee's personnel file.

Documentation

Supervisors are expected to document disciplinary action. The documentation should contain a description of the substandard performance or misconduct that prompted the discipline, the action taken, and how the employee's conduct must change, including time frames if necessary. Every disciplinary action taken shall be recorded so as to provide documentation that rules are enforced equitably and in accordance with stated policy, without regard to race, gender, national origin, disability, age, religion, or any other protected class, as defined by law.

All disciplinary documentation, with the exception of counseling, shall be sent to Human Resources to be kept in the employee's personnel file.

Supervisory Responsibility

All employees with the responsibility and authority to supervise and direct employees under their control, shall administer policies and procedures within their scope of authority; document in writing their subordinates' job performance, conduct, and behavior, as appropriate; properly conduct evaluations of subordinates in a timely manner; discipline their subordinates as required under their departmental and/or city policies and procedures; and address performance appeals submitted to them, in an attempt to resolve such issues at the lowest possible supervisory level.

Supervisors may be encouraged to implement performance improvement plans when deemed appropriate.

Appeal Rights

An employee may appeal for reconsideration of disciplinary action to the department head, by following the grievance process. If the results of this appeal do not satisfy the employee, the case may be elevated to the next level in the chain of command. The City Administrator shall be the final authority.

All appeals must be made in writing within five (5) business days of notification of discipline. The employee can expect to receive a response within ten (10) to fifteen (15) business days. See **Chapter 6: Workplace Conditions – Grievances section**.

Employees serving the initial probationary period, seasonal employees, part-time fire, paid on-call fire, and temporary employees have no right of appeal for disciplinary action.

Administrative Leave

During an investigation into alleged offenses or violations of city policy, the City may, at its sole discretion, place the employee on administrative leave. If an employee is placed on administrative leave, the expectations of the leave (i.e., being available for questioning during working hours) will be explained and documented in writing and given to the employee. Administrative leave may be paid at the discretion of City Administration. Any violation of the administrative leave notification will result in further discipline, up to and including termination. See **Chapter 4: Leaves of Absence – Administrative Leave section**.

Disciplinary Considerations and Guidelines

The suggested responses in this section contain general guidelines for reviewing and responding to employee conduct and work performance issues. This section shall be used as a tool to help supervisors evaluate and respond to employee performance problems and workplace issues in a fair and effective manner.

As it relates to discipline and disciplinary actions, if an individual department's matrix was created and followed prior to this edition of the employee handbook, it may supersede the disciplinary matrix listed below.

These guidelines are not intended to create obligations regarding a level of disciplinary action, which may be imposed on an employee.

Employee Expectations from Supervisors/Leadership

Employees play a valuable and critical role in our organization. Supervisors/Leadership have a responsibility to train and support each employee in understanding job requirements and to assist employees in improving performance and addressing issues negatively affecting the workplace. Employees of the City have the following reasonable expectations from management:

- A clear understanding of the individual job descriptions, standards, expectations, and work rules;
- Annual performance review based upon job-related competency criteria;

- A safe and healthy work environment;
- Willingness to respond to employees' concerns and complaints;
- To be treated with dignity and respect;
- Fair and non-discriminatory application of policies and procedures.

In turn, providing quality services requires the cooperation by employees and adherence to established policies, procedures, regulations, practices, and high standards of job performance.

Using these Guidelines

The following guidelines provide guidance for the proper level of discipline depending on particular infractions and shall be used to help promote consistency in the level of discipline for similarly-situated employees. Specific case information must be considered, which may change the recommended level of disciplinary action from what is noted on this matrix. The following section outlines considerations that should be considered prior to initiating a disciplinary action.

Considerations Prior to Action

- Is there a departmental disciplinary policy or matrix that should be taken into account?
- Did the supervisor give the employee probability of disciplinary action for the employee's conduct?
- Was the supervisor's rule/expectations reasonably related to the orderly, efficient, and safe operation of the department and City of Williston?
- Did the supervisor investigate whether the employee violated a policy or rule?
- Was the process of investigation whether the employee violated a policy or rule fair and objective?
- Did the investigation process reveal substantial evidence or proof of violation of the policy or rule?

- Has the supervisor applied the policy or rule and discipline to all employees within their department consistently?
- Is the degree of discipline reasonably related to the violation?

Escalating and Mitigating Factors

When using this guide, consideration should always be given to the nature of the incident, the frequency of the violation, the employee's overall work record, before disciplinary action is taken. A corrective process of progressive discipline is generally used but some violations could be of such a serious nature that disciplinary action could lead directly to a suspension or termination. The following table outlines important factors to be taken into consideration, which may result in increased or decreased discipline.

The final outcome of discipline must be determined based on specifics of the incident and shall be determined by Human Resources. Contact your Human Resources Department for guidance to determine any level of discipline.

ESCALATING FACTORS

Factual information or evidence regarding the violation that might result in increased discipline.

- | | |
|---|---|
| <ul style="list-style-type: none"> • Departmental disciplinary policy • Nature, severity, and frequency • Relationship of offense to employee's position • Prior notice given to the employee • Prior disciplinary history • Period of time since the last violation • Pattern of similar violations | <ul style="list-style-type: none"> • Number of total violations • Evidence that violation was willful or intentional • Evidence the violation was grossly negligent • Impact to operations and the City • Impact to health and safety of community • Other escalating factors |
|---|---|

MITIGATING FACTORS

Information or evidence regarding the violation that might result in a decreased discipline.

- | | |
|---|---|
| <ul style="list-style-type: none"> • Significant period of time since the last violation • Technical or inadvertent error • No prior notice given to the employee • No prior disciplinary history • Extensive period of time since the last violation • Period of time since the last violation • No pattern of similar violations • Number of total violations | <ul style="list-style-type: none"> • No evidence that violation was willful or intentional • No evidence the violation was grossly negligent • Minimal impact to operations and the City • Impact to health and safety of community • Other mitigating factors |
|---|---|

Important Considerations

These guidelines do not consider individual circumstances relating to the [Family Medical Leave Act](#) (FMLA), the [Americans with Disabilities Act](#) (ADA), or workers compensation. If you have reason to believe an employee has a medical condition impacting their performance, attendance, or behavior, contact your Human Resources Department to help guide you appropriately on these issues.

Drug and Alcohol Program

The City of Williston does not tolerate illegal drug usage or drug abuse by employees on or off-duty, or by anyone in any city workplace. Further, the City of Williston recognizes that the use of illegal drugs, and abuse of alcohol and prescription drugs is a serious problem within our society. In response to this concern, the City is committed to the following goals: (1) to establish and enforce clear policies regarding the use of alcohol and illegal drugs; (2) to educate employees of the City of Williston for the purpose of preventing alcohol abuse and illegal drug use; (3) to create a work environment that promotes the individual's responsibility to themselves, as well as the City of Williston; and (4) to provide resources through counseling and referral services for employees who experience alcohol and other drug abuse problems.

Implementation

The City of Williston prohibits the abuse of alcohol or use of illegal drugs, as well as reporting for work or engaging in work or other related activities under the influence of alcohol or illegal drugs. Behaviors which suggest alcohol/drug abuse include (but are not limited to) the following:

- Repeated accidents
- Repeated illness absences
- Chronic lateness or early departures
- Significantly diminished task performance (with no other explanation)
- Odor of alcohol, slurred speech, unsteady gait, disorientation, paranoia, hallucinations, and other physical signs of impaired function, not caused by a known medical condition.

A co-worker who suspects that a colleague or co-worker is under the influence of alcohol or illegal drugs should contact their department supervisor immediately. An employee who suspects a supervisor or department head is under the influence of alcohol or other illegal drugs should contact the next level of supervision or City Administration. If a department supervisor or department head has been contacted or suspects that an individual is under the influence of drugs or alcohol, they should contact Human Resources or City Administration for assistance. The individual will be given an opportunity to discuss the situation.

A person suspected or found to be under the influence of alcohol or other drugs and/or who may be incapable of performing their job shall be removed from duty. The individual will be taken home or be sent home. Anyone who insists on driving while suspected of being under the influence of alcohol or other drugs will be reported to authorities.

If a person admits to being under the influence of alcohol or illegal drugs, drug or alcohol testing of the individual may be necessary. If it is determined that testing is necessary because of a critical incident in the workplace or because of safety concerns for the individual, blood and/or urine testing procedures will be used.

The City of Williston will pay the cost of all required drug or alcohol testing. Random drug or alcohol testing is not explicit or implicit in this policy. An individual suspected or found to be under the influence of alcohol and/or illegal drugs may be referred for evaluation to the Employee Assistance Program (EAP), and, if indicated, will be expected to participate in an appropriate treatment program for rehabilitation. If an individual refuses evaluation, refuses to participate in the appropriate treatment program, or does not successfully complete a treatment program, they will be subject to disciplinary action, up to and including termination.

If the individual is able to continue working while involved in the treatment program, their department head and City Administration will determine if the individual is capable of performing regular job duties. If it is determined that regular job duties cannot be performed, a temporary alternate job in the department or unit may be offered, if one is available for which the individual is qualified. If a position is not available and the individual cannot perform regular job duties, the individual will be required to utilize accrued leave.

As a condition of employment, a Return-to-Work Agreement may be requested after completion of substance abuse treatment and/or receiving medical clearance to return to work from the treatment provider.

Return to duty testing may be required following a positive result, in the event the City has elected to retain the employee and has not exercised its authority to terminate the employee.

Conviction of Criminal Drug Statute Violation

Any employee convicted of violating a criminal drug statute in this workplace must inform their department supervisor of such conviction, including pleas of guilty and no contest, within five (5) working days of the conviction occurring. Failure to inform the supervisor or department head will subject the individual to disciplinary action, up to and including termination for the first offense. Under the [Drug-Free Workplace Act of 1988](#) involving employees on federal grants or contracts, the City of Williston will notify the appropriate federal contracting officer within ten (10) days of receiving such notice from employee on a federal grant or contract or otherwise receiving notice of such a conviction.

Supervisors or department heads who are notified of a criminal drug statute conviction by an employee shall immediately inform Human Resources.

The City of Williston reserves the right to offer individuals convicted of violating a criminal drug statute in the workplace, participation in an approved rehabilitation or drug assistance program as an alternative to discipline. If such a program is offered, and accepted by the employee, the employee must satisfactorily participate in the program as a condition of continued employment. Appropriateness of a rehabilitation program to a specific conviction shall be determined on a case-by-case basis.

Upon completion of the initial alcohol/drug treatment program, the individual may be monitored for up to two (2) years by Human Resources, as determined by the treatment program. As a part of the aftercare program, monthly reports from the licensed drug/alcohol treatment program will be submitted to the department head and Human Resources, on the individual's progress while they are in the program. Reports of relapses and/or missed aftercare meetings also will be reported to the department head and Human Resources by the licensed alcohol/drug treatment program. Non-compliance in the above-stated elements of the aftercare program will result in disciplinary action, up to and including termination.

Prescription Drugs

Although prescription drugs and over the counter drugs are legal, their use may be unsafe under certain circumstances. A person who is using a drug, which impairs mental or physical functioning, should inform their supervisor and Human Resources. The supervisor will be responsible for evaluating the individual's ability to work. If necessary, the employee may be requested to obtain a statement from the prescribing physician, authorizing the individual to work. If it is determined that it would be unsafe for an individual to work in the regular work setting, an alternative, temporary job may be offered, if one is available, for which the person qualifies. If no suitable job is available, the impaired person will be put on leave status.

Sale, Transfer, Possession of Illegal Drugs

Possession of illegal drugs (except possession of current prescription drugs) is prohibited and anyone in violation shall be subject to discipline. Any person, who sells, manufactures, or distributes any illegal drugs on city property, will be reported to the authorities, which may lead to disciplinary action, up to and including termination.

This is not a list of all possible alcohol or drug offenses. The violation of any offense, listed or not, may lead to disciplinary action by the City, as well as criminal prosecution.

[CONFIDENTIALITY OF RECORDS North Dakota Century Code 44-04-18.1](#), "Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and may not be released without the written consent of the employee."

Drug-Free Workplace Policy Statement

The City of Williston prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace and in any facility under the City's control. Employees who violate this policy shall be subject to disciplinary action such as reprimand, suspension, or termination.

Any employee who is convicted of unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or other criminal drug statute is required to notify their department head no later than five (5) working days after such conviction. Failure to notify the appropriate supervisor(s) of a drug-related conviction shall be grounds for disciplinary action, up to and including termination. The City of Williston shall make all good faith efforts to have and to maintain a drug-free workplace.

Reasonable Suspicion

Under the City's authority, reasonable suspicion includes, but is not limited to:

- Arrest or conviction for a drug or alcohol related offense on or off the job; or
- The identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking; or
- Information provided by reliable and credible sources that is independently corroborated; or
- Newly discovered evidence that an employee has tampered with a previous drug and/or alcohol test; or
- Possession of drug paraphernalia.

When there is reasonable cause/suspicion to believe that an employee covered by this policy is using a prohibited drug or using alcohol while on duty, the employee will be required to take a test for drugs and/or alcohol. The required observations for alcohol and/or drugs reasonable suspicion testing shall be made by a supervisor to the Safety Coordinator and Human Resources Department.

The decision to test under the City's authority must be based on specific, documented observations concerning the appearance, behavior, speech, or body odors of the employee. The observations may include indications of chronic or withdrawal effects of drugs. Alcohol testing is authorized only if the observations are made during or just preceding the period of the work day, in which the employee is required to be in compliance with this policy.

An identified employee shall not be allowed to proceed alone to or from the collection site. The Safety Coordinator or supervisor shall accompany the employee to and from the collection site.

Refusal to test under the guidance of this section, shall be equivalent to a positive test result.

Refusals to Test and Uncompleted Tests

Under the City's authority, compliance with reasonable suspicion or random drug and/or alcohol testing is a condition of employment. Refusing to a reasonable suspicion test may lead to disciplinary action, up to and including termination.

Refusing to a random drug and/or alcohol test, or failure of a drug/alcohol test may result in removal from duty. Refusal to test carries the same consequences as a positive test result, and includes the following to both drug and alcohol testing:

- The inability or failure to provide a specimen or breath sample as required;
- The inability or failure to provide a specimen or breath sample without a valid medical reason confirmed by a licensed medical provider;
- Delaying arrival, or failure to appear, at a designated collection site for any test in the time allotted;
- Failure to remain at the test site until the testing process is completed;
- Failure to cooperate with any part of the testing process;
- Failure to take a second test, when required.

Safety-Sensitive Positions

Safety-sensitive positions are those positions identified by the City as safety-sensitive and are subject to the City's drug and/or alcohol testing rules. City safety-sensitive positions may also include those that are classified as U.S. Department of Transportation (US DOT) safety-sensitive, and meet the following criteria:

- Where the employee's performance of assigned duties could create a safety hazard that could cause injury or harm to the employee, other employees or citizens, or cause damage to property;
- City safety-sensitive positions include, but are not limited to, those that require the operation of a city vehicle and/or motorized equipment, such as cars, trucks of any size, vehicle wheelchair lifts, tractors, light equipment, heavy equipment, mowers, weed trimmers, trash compactors, saws, drills, in order to perform their jobs;
- Most positions within fire and police department(s);

- Those that are involved in the maintenance of facilities, streets, or vehicles;
- Those that use and/or handle hazardous materials/chemicals.

Alcohol and Controlled-Substance (CDL)

City employees who drive a commercial motor vehicle requiring a commercial driver's license (CDL) as part of their job duties are subject to alcohol and drug testing as required by the U.S. Department of Transportation (US DOT) and the Federal Motor Carrier Safety Administration, and as outlined in this section.

Arrests, Confinements, and Indictments

City employees are subject to disciplinary action, up to and including termination or job restrictions, for violations of law. This section applies to acts prohibited by law whether or not they result in charges being filed, arrest, confinement, indictment, and/or conviction.

Use of Alcohol Off Duty

While off duty, an employee shall refrain from consuming alcoholic beverages to the extent that it results in obnoxious or offensive behavior, which tends to discredit the City or the employee, or renders the employee unfit to report for the next assigned work day. See Chapter 5: Standards of Conduct – Code of Conduct section and Chapter 6: Workplace Conditions – Uniforms section.

Felonies and Misdemeanors

Employees must immediately notify their supervisor and/or department head within twenty-four (24) hours if they are detained, arrested, charged, indicted, convicted, receive deferred adjudication or plead no contest to any misdemeanor or felony, other than a traffic misdemeanor. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations. In most instances, the City will conduct its own investigation and take appropriate action.

An employee arrested, charged, or indicted for a felony or misdemeanor, or accused of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment, or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are completed, and all related administrative matters are concluded. Such a determination will typically be made by the department head and the Human Resources Director. An employee on administrative leave may, at the City's sole discretion, be reinstated to the position they held before being placed on administrative leave (if available) if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

Employee Status after Violation of Law

At the time the employee's department is made aware of the employee's arrest or conduct constituting an offense, the department head shall consult with Human Resources to determine available options, which may include, but are not limited to:

- Allowing the employee to return to regular duty with pay;
- Allowing the employee to return to restricted duty with pay;
- Placing the employee on paid administrative leave;
- Placing the employee on unpaid administrative leave; or
- Terminating the employee.

Disciplinary Action

Disciplinary action may be pursued concurrently or in place of the above options or imposed at a later date. Multiple violations of law or confinement within a prescribed time period may also result in disciplinary action.

Employee Detained by Law Enforcement Authorities

An employee questioned by law enforcement authorities and not free to leave is considered to be "detained." Employees are to contact their immediate supervisor at the beginning of the next work shift after being detained by law enforcement authorities, including traffic stops, to report the detainment, arrest, confinement, or indictment, and the reason for it. If the employee is unable to report to the supervisor because of confinement, the employee must have someone contact the supervisor on behalf of the employee, no later than the beginning of the next scheduled work shift to report why the employee is unable to report to work. A detained employee who fails to report to work at the employee's regularly scheduled time and/or provide timely notification to the supervisor, will be subject to disciplinary action, up to and including termination.

Other Policies

This section should not be construed to limit disciplinary action that may be taken in accordance with other personnel policies and procedures, department policies, or other city-wide policies.

Sexual and Other Unlawful Harassment

All City employees are entitled to a workplace free of unlawful discrimination, harassment, or retaliation by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally at all times. City employees are prohibited from engaging in unlawful discrimination, harassment, or retaliation of employees, citizens, vendors, and all other third parties.

Discrimination

No employee shall discriminate against or favor any individual on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability, with regard to the terms and conditions of employment.

Discrimination of any kind can and often will detract from employees' job performance, discourage employees from remaining on the job, keep employees from advancing in their careers, and lower overall employee morale and productivity. It is the policy of the City of Williston that unlawful discrimination, harassment, or retaliation and sex-based discrimination is unacceptable conduct and will not be tolerated.

It is the purpose of this section to reaffirm and amplify the position of the [Title VII of the Civil Rights Act of 1964](#) (Title VII), as amended, and the Equal Employment Opportunity Commission's guidelines on sexual harassment, sex-based discrimination, and retaliation, and to reiterate our policy against discrimination and harassment.

Harassment

Harassment on the basis of an individual's religion, race, color, national origin, disability, age, sexual orientation, gender identity or sex, or that of the individual's relatives, friends, or associates, is prohibited.

Under this section, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, epithets, slurs, or negative stereotyping, threatening, intimidating, or hostile acts, denigrating jokes, and written or graphic material that denigrates or shows hostility or aversion toward an individual or group, and that is placed on walls or elsewhere on the employer's premises, or circulated in the workplace.

Sexual Harassment

All forms of sexual harassment are prohibited. Conduct which has unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are forms of sexual harassment. In addition, conduct of a sexual nature constitutes sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment, also known as "quid pro quo"; or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors; sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects, pictures, or written materials, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

Definition of Sexual Harassment

"Sexual harassment" is generally defined under both state and federal law as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where:

Other sexually oriented conduct, whether intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating, or humiliating to workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct that, if unwelcome, may constitute sexual harassment depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwanted sexual advances, whether they involve physical touching or not;
- Sexual epithets, jokes, written or verbal references to sexual conduct, gossip regarding one's sex life, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, or cartoons;
- Unwelcome leering, whistling, brushing up against the body, sexual gestures, or suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment and retaliation against individuals for cooperating with an investigation of sexual harassment complaint is unlawful and will not be tolerated by the City of Williston.

Other Prohibited Harassment

In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited.

This means that verbal or physical conduct that singles out, denigrates, or shows hostility or aversion toward someone because of race, religion, color, ancestry, national origin, age, disability, genetics, sex, sexual orientation, gender identity, veteran status, citizenship, or any other characteristic protected by law, is also prohibited.

Prohibited conduct includes, but is not limited to, epithets, slurs and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures, that single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and strictly prohibited.

This policy also prohibits sending, showing, sharing, or distributing inappropriate jokes, pictures, comics, stories, in any form, including but not limited to via fax, e-mail, cell phone or other electronic device, social media, and/or the internet. Harassment of any nature when based on race, religion, color, ancestry, national origin, age, disability, genetics, sex, sexual orientation, gender identity, veteran status, citizenship, or any other characteristic protected by law is prohibited and will not be tolerated.

Mandatory Reporting

The City requires that employees report all perceived incidents of harassment, regardless of the offender's identity or position. Reporting requirements also includes conduct of non-employees, contractors, vendors, and/or customers of the City. Any employee who observes or otherwise learns of possible harassment in the workplace, or who feels that harassment has occurred, or has been subjected to conduct prohibited by this policy, must report it immediately to one of the following:

- Any manager, supervisor or any foreman;
- The department head;
- The Human Resources Director;
- The City Administrator.

Any supervisor, manager, or department head who becomes aware of possible conduct prohibited by this policy must immediately advise the department head and/or the Human Resources Director.

Under this policy, an employee may report to the Human Resources Director directly, without regard to the employee's normal chain of command:

Chery Pierzina
Human Resources Director
22 East Broadway
PO Box 1306
Williston, ND 58802-1306
(701) 713-3802
cheryp@ci.williston.nd.us

The employee may also report directly to:

David Tuan
City Administrator
22 East Broadway
PO Box 1306
Williston, ND 58802-1306
(701) 713-3800
davidt@ci.williston.nd.us

Investigation

All reports of prohibited conduct will be investigated promptly and in as confidential a manner as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation and to maintain confidentiality.

Retaliation

Retaliation against employees who make a good faith charge or report of prohibited conduct or who assist in a complaint investigation, is prohibited under this policy. Acts of retaliation must be reported immediately, as set out above, and will be promptly investigated and addressed. The City prohibits acts of retaliation in the workplace.

Responsive Action

Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including termination, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action may be imposed in situations where claims of prohibited conduct were knowingly untruthful, fabricated, or exaggerated.

In addition to reporting a complaint of discrimination, harassment, sexual harassment, sex-based discrimination and/or retaliation to company officials, a person may also contact the [U.S. Equal Employment Opportunity Commission \(EEOC\)](https://www.eeoc.gov/) to file a charge of employment discrimination. The address and telephone number of the [EEOC](https://www.eeoc.gov/) is: U.S. Equal Employment Opportunity Commission, 131 M Street, NE, Washington, DC 20507; (202) 663-4900. Information about employment rights and the procedures dealing with how to file a charge is available at www.eeoc.gov.

Mandatory Compliance Training

All City employees will be required to take discrimination and harassment training when it is offered by the City.

Workplace Violence and Bullying

The City of Williston is committed to preventing workplace violence and maintaining a safe, professional work environment. Furthermore, maintaining a safe and professional work environment also includes an environment free of bullying. The purpose of this section is to communicate to all employees, the signs of potential bullying behavior and the negative impact it causes in the workplace.

Employees found in violation of this section will be disciplined, up to and including termination.

This section prohibits harassment, intimidation, threats, and violent behavior, by or towards, anyone in the workplace, that is in any way job or city-related, that is or might be carried out on city property, or that is in any way connected to an individual's employment with the City, whether the conduct occurs on or off-duty. The City of Williston has a zero-tolerance policy for this type of misconduct.

Furthermore, this section also prohibits bullying behavior. Bullying is defined as repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. Such behavior violates the City of Williston Code of Conduct, which clearly states that all employees be treated professionally, with dignity and respect.

Violence

All employees, customers, vendors, and business associates should be treated with courtesy, and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other conduct that may be dangerous to others. Conduct that threatens, intimidates, or coerces another employee, customer, vendor, or business associate will not be tolerated. City of Williston resources may not be used to threaten, stalk, or harass anyone at or outside the workplace.

Violence Reporting

Each employee must immediately notify their supervisor, department head, the Human Resources Department, and/or the Police Department of any act of violence, or of any threat involving another employee that the employee has witnessed, received, or has been told that another person has witness or received.

Even without an actual threat, each city employee must also report any behavior that the employee regards as threatening or violent, when that behavior is job-related, or might be carried out on city property, a city-controlled site, or city job site, or when that behavior is, in any manner, connected to city employment or activity. Each employee is responsible for making this report, regardless of the relationship between the individual who initiated the threat or threatening behavior, and the person or persons threatened or the target of threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify their department head and the Human Resources Department.

Protective Orders

Employees who apply for or obtain a protective or restraining order, which lists city locations as being a protected area, must immediately provide to the Human Resources Department and the Police Department, a copy of the petition and declarations used to seek the order; a copy of any temporary protective or restraining order which is granted; and a copy of any protective or restraining order which is made permanent. Employees must immediately advise the department head and the Human Resources Department of any protective or restraining order issued against them.

Confidentiality

To the extent possible, while accomplishing the purposes of this section, the City will respect the privacy of reporting employees, and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, management, and others on a need-to-know basis, and as may otherwise be required by law.

Investigations and Enforcement

The City of Williston will promptly and thoroughly investigate all reports of threats of violence or incidents of actual violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as possible. The City of Williston will not retaliate against employees making good-faith reports of violence, threats or suspicious individuals or activities. To maintain workplace safety and the integrity of its investigation, the City of Williston may suspend employees suspected of workplace violence or threats of violence with or without pay, pending investigation.

Any employee found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines, will be subject to prompt disciplinary action, up to and including termination.

The City of Williston encourages employees to bring their disputes to the attention of their supervisor or the Human Resources Department, before the situation escalates, and will not discipline employees for raising such concerns.

Bullying

Bullying may be intentional or unintentional. When an allegation of bullying is made, the intention of the alleged bully is irrelevant, and will not be given consideration when addressing disciplinary measures. As in sexual harassment, it is the effect of the behavior on the victim that is important. The following acts may be considered a form of bullying:

- Verbal bullying: Slandering (speaking untruthfully about another person), ridiculing, or maligning a person or his or her family; persistent name calling that is hurtful, insulting, or humiliating; using a person as butt of jokes; abusive and offensive remarks;
- Physical bullying: Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property;
- Exclusion: Purposefully excluding or disregarding a person in work-related activities, whether physically or socially.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person;
- Shouting or raising voice at an individual in public or in private;
- Using verbal or obscene gestures;
- Not allowing the person to speak or express themselves (i.e., ignoring or interrupting);
- Personal insults and use of offensive nicknames;
- Public humiliation in any form;
- Constant criticism on matters unrelated or minimally related to the person's job performance or description;
- Ignoring or interrupting an individual at meetings;
- Public reprimands;
- Repeatedly accusing someone of errors that cannot be documented;
- Spreading rumors and gossip regarding individuals;
- Encouraging others to disregard a supervisor's instructions;
- Manipulating the ability of someone to do their work (i.e., overloading, under loading, withholding information, assigning meaningless tasks, setting deadlines that cannot be met);
- Inflecting menial tasks not in keeping with the normal responsibilities of the job;
- Taking credit for another person's ideas;
- Refusing reasonable requests for leave, in the absence of work-related reasons, not to grant leave;
- Deliberately excluding an individual and/or isolating them from work-related activities, such as meetings;
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property;
- Hazing.

Consequences of Bullying

Bullying is unacceptable behavior because it breaches principles of equality and fairness, and it frequently represents an abuse of power and authority. It also has grave potential consequences for everyone involved. People who have been bullied often suffer from a range of stress-related illnesses. Their work performance can suffer, and they are at an increased risk of workplace injury. In addition, in the workplace, bullying can lead to:

- Deterioration in the quality of work;
- Increased absenteeism;
- Lack of communication and teamwork;
- Lack of confidence in the employer, leading to lack of commitment to the job.

Responsibilities

All employees have the responsibility to identify bullying or harassing conduct and take steps to stop the conduct. If you witness inappropriate conduct directed at others, take action by reporting the behavior to help contribute to a more respectful environment.

All employees have the responsibility to ensure workplace bullying is prevented.

Responsibilities of Managers and Supervisors

Managers and supervisors will ensure that all employees are aware of the anti-bullying section of the employee handbook and anti-bullying procedures. They will ensure that any incident of bullying is dealt with, regardless of whether a complaint of bullying has been received.

Managers and supervisors will provide leadership and model appropriate professional behavior. Managers and supervisors will also respond promptly, sensitively, and confidentially to all situations where bullying behavior is observed or alleged to have occurred.

Responsibilities of Employees

Employees will be familiar with the workplace violence and bullying section of the City of Williston Employee Handbook, as well as the full content of the City of Williston Employee Handbook.

Reporting and Investigation

Any employee who feels they have been victimized by bullying is encouraged to report the matter to his or her supervisor or to Human Resources. Where appropriate, an investigation will be undertaken, and disciplinary measures will be taken as necessary.

Mandatory Compliance Training

All City employees will be required to take workplace violence and bullying training when it is offered by the City.

Social Media

The City of Williston utilizes social media and social network sites to further enhance communications, to support city goals and objectives. The section defines an employee's personal usage of social media.

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City, or violate any city policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees, and its citizens through electronic media, including, but not limited to, online forums, instant messaging, and social media and blogging sites.

This section is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also the City.

When participating on social networking sites, not related to city business, an employee shall make it clear they are not speaking on behalf of the City of Williston but speaking in their capacity as a private citizen.

The term "social media" encompasses Twitter, Facebook, Snapchat, Instagram, Tumblr, Flickr, LinkedIn, bulletin boards, chat rooms, instant messaging, and all other user-driven social networking sites; microblogging, blogs, vlogs, and other online journals and diaries, and the posting of video(s) on YouTube and similar user-driven media sources.

Other City Policies

This section should be read and interpreted in conjunction with other city policies, including but not limited to, policies and sections of the City of Williston Employee Handbook prohibiting harassment, discrimination, offensive conduct, and inappropriate behavior. Violations of the social media section may lead to disciplinary action, up to and including termination.

Employee Guidelines

The City of Williston recognizes that many employees utilize social media. The City requires that employees be aware of these guidelines regarding posting activity on their own personal websites and social media, when such activity could negatively reflect on the City and its employees.

- It is acceptable for employees to promote the City of Williston, including designating the City as their employer, and promoting city events using their personal social media site. The City desires employees to be proud of their job and employer.

- Employees are encouraged to act responsibly and with integrity, on and off duty, and to exercise good judgment when using social media. Recognize that postings on your social media site, even if done off premises and off duty, could have an adverse effect on the City's image and its employees.
- Respect co-workers and the City. Do not put anything on your personal social media site that may defame, embarrass, insult, demean, or damage the reputation of the City or any of its employees. Inappropriate postings include but are not limited to using foul language, posting inappropriate pictures, and postings that exhibit violent, sexual, and/or other behaviors of the employee that would be considered disturbing and inappropriate to a reasonable person.
- Do not put anything on your personal social media site that may constitute violation of the City of Williston Sexual and Other Unlawful Harassment Policy.

Attendance and Punctuality

Employees are expected to report for work promptly and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupts workflow and customer service. Excessive tardiness and poor attendance will not be tolerated.

An employee must notify their supervisor, as far in advance before their scheduled start time, if anticipating being late or absent. Unauthorized or excessive absences or tardiness may result in disciplinary action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper departmental procedures. No employee shall be absent from duty without permission of the appropriate supervisor. See Chapter 2: Employment Status and Records – Timekeeping section.

Employees who are absent from work for two (2) consecutive days, without giving proper notice, will be considered to have abandoned their job and will be terminated.

Conflict of Interest

City employees shall not engage in activities, transactions, or relationships that are incompatible with the impartial, objective, and effective performance of their duties, or that are adverse to the City's interest, or adversely affect the City's reputation. No employee shall directly or indirectly maintain or engage in any outside business or financial interest, which conflicts with the interest of the City, or interferes with the employee's ability to complete their job responsibilities with the City to the fullest.

All employees are required to disclose, in writing, to the Board of the City Commissioners, any proprietary or financial interest they may have, in any organization, with which the City does business, or with which it is in competition, to determine whether a conflict exists. If it is determined a conflict exists, it may be grounds for termination. Nothing in this policy is intended to restrict investment or require disclosure, of any investment, of any employee, in stock or any other security, of any corporation, listed on the national securities exchange, or regularly traded by national securities dealers.

An employee shall not use information obtained in the course and scope of employment, including city reports, records, files, or contacts with citizens, for personal or financial gain.

An employee shall not recommend or suggest, in any manner, the employment or procurement of a particular product, professional service, or commercial service, such as an attorney, doctor, plumber, mechanic, etc., unless permitted by applicable city ordinance, when authorized by proper authority, or in the transaction of personal business.

City employees may not hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with city employment, i.e., Williston Board of City Commissioners, Williston Convention & Visitors Board, Williston Community Library Board, Williston Planning & Zoning Commission, etc. Upon being elected or appointed to such an office, an employee must decline the appointment or resign from their employed position with the City.

The failure of any employee to comply with this section shall constitute grounds for disciplinary action, up to and including termination.

Civil Claim

City employees who wish to commence civil action or a civil claim against the City of Williston, because of certain alleged conduct or negligence, must notify the Human Resources Department of their intent, to allow the City to begin an investigation of the facts concerning the claim. This is not intended to be an exhaustive or complete recitation of the law but allows for the City to identify the basis for the claim.

The notification must be in writing and contain the nature of the claim, the time, the place, and the manner in which the claim arose.

Fraud

City department heads are responsible for the detection and prevention of fraud, misappropriation, and other irregularities. Any irregularity that is detected or suspect must be reported immediately to City Administration.

City Administration is responsible for coordinating all investigations with the appropriate internal and external authorities.

Whistleblower

A whistleblower, as defined by this section, is an employee of the City of Williston who reports an activity that they consider to be illegal or dishonest to one or more parties specified in this handbook. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

Examples of illegal or dishonest activities are violations of federal, state or local laws, fraudulent financial reporting and/or discrimination based behaviors and activities towards a protected class and/or retaliation. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to disciplinary action, up to and including termination.

Whistleblower protections are provided in two important areas:

- Confidentiality; and
- Retaliation.

The confidentiality of the whistleblower will be maintained when possible. Identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. The City of Williston will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment actions, such as termination, compensation decreases, or poor work assignments, and threats of physical harm. Any whistleblower who believes they are being retaliated against must contact their department head or Human Resources Department immediately. The right of a whistleblower for protection against retaliation does not include policy violations or immunity for any personal wrongdoing that is alleged and investigated.

CHAPTER 6: WORKPLACE CONDITIONS

Breaks

The City of Williston may allow rest breaks, as authorized by an employee's immediate supervisor, providing they do not interfere with the job or with maintaining uninterrupted service.

Employees may, depending on individual departmental work schedules and the discretion of the supervisor, take up to two (2) fifteen (15) minute paid rest breaks each day, one during the first part of the work day and the other during the latter part of the work day; or at the option of the supervisor, one (1) break of thirty (30) minutes per day. When engaged in outdoor work, the employee shall not be allowed to leave the job site for breaks. When performing work in several locations, the employee shall be permitted to stop for authorized breaks en route to a different location. Time spent on rest breaks will be calculated as hours worked.

The following practices are not permitted uses of rest breaks:

- "Banking" break period time from day to day;
- Saving break period time to extend lunch periods or shorten the scheduled work day.

For Police or Fire Department employees, please refer to departmental policies in regard to breaks.

Meal Periods

Full-Time employees are normally provided either a 30-minute or one-hour unpaid meal period near the middle of the work day. Meal periods may be staggered by the department head in order to minimize departmental interruption. Supervisors will provide employees with the starting and ending times for their specific meal periods. Employees will be relieved from work responsibilities during meal periods. Employees may not shorten or extend meal periods beyond their assigned period without prior approval from their supervisor.

Employees whose daily work duties require them to be offsite may be assigned an automatic meal period and are responsible for reporting to their supervisor if a scheduled meal break is not taken.

For Police or Fire Department employees, please refer to departmental policies regarding meal periods.

Breaks for Nursing Mothers

The [Fair Labor Standards Act \(FLSA\)](#) requires employers to provide break time and space for nursing for one year after the child's birth.

Employers are required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers or the public. The frequency of breaks and the duration of each break varies by individual. Employees will not be paid for time beyond the paid break periods, as described in the Workplace Conditions Policy. Non-exempt employees may use their paid break periods and/or accrued leave for time needed for nursing during the work-day. **Also see Chapter 6: Workplace Conditions.**

Dress Code

The City of Williston provides a casual yet professional work environment for its employees. All employees are expected to dress in a manner consistent with their position. Specific departments have detailed dress codes which are mandatory for that department.

Inclement Weather – Emergency Closing

Except for extraordinary circumstances, city offices do not close for inclement weather. All employees are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations. If weather conditions or other emergency situations were to occur that the Board of City Commissioners or City Administrator declared city offices/departments to be closed, department heads will receive the notification directly. Department heads will make the necessary notifications to department supervisors to notify their employees. For conditions such as snow and ice, the City Administrator will attempt to make a declaration by 6:00 a.m. The Communications Strategist will receive notification and contact the appropriate media outlets.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify the immediate supervisor and/or department head, to make arrangements to report to work if weather conditions improve.

The department head or the designated supervisor is responsible for ensuring adequate staffing, while city offices are open for business during inclement weather or emergency conditions. Any city service(s) that cannot be provided during inclement weather or other emergency conditions, must be immediately reported to the City Administrator's office.

If the Mayor or City Administrator declares offices to be closed, all affected personnel, i.e., employees who were scheduled to work during the time of closure, will be granted regular pay for the time the office/department is closed.

Essential personnel must report to work, even when other city departments are officially closed due to weather or other extraordinary circumstances, as designated by the department head and/or City Administrator.

Essential personnel who fail to report to work, unless excused by the department head or designee, may be subject to disciplinary action, up to and including termination. Essential personnel are designated by their individual departments.

Smoking Restrictions

In order to encourage and support healthy lifestyles and a safe work environment, the city policy is to provide a smoke free workplace. Smoking is prohibited in city buildings, or outdoors within twenty (20) feet of any entrance utilized by employees or the public. Smoking is also prohibited in all city vehicles and equipment. Smoking is only allowed in designated smoking areas. Cigarette or cigar butts may not be discarded on the ground at any city facility, including parking lots. This prohibition against smoking applies to electronic cigarettes, vapors, heated cigars, or any other lighted or heated tobacco plant intended for inhalation, in any manner or in any form, as defined by [North Dakota Century Code 23-12-09](#).

Failure to comply with smoking restrictions may result in disciplinary action, up to and including termination.

City Resources Management

Managing city resources efficiently and with care is good stewardship of the taxpayer's trust and funds.

City-issued property can include, but is not limited to, the following: uniforms, keys, cell phones, electronic devices, computers, safety equipment, security badges, key-fobs, city credit-cards, desk phones, and headsets. Employees are responsible for items formally issued to them by the City, as well as for items otherwise in their possession or control or used by them in the performance of their duties.

Departments

It will be the responsibility of each department to designate an individual tasked with creating and maintaining an inventory of all property issued to the employee. Upon an employee's termination, it will be the responsibility of the supervisor and the department head to ensure all city-issued property is returned by the employee by the last work day, if possible.

Employees

It will be the responsibility of every employee to keep up with and maintain a high level of care for all city-issued property. It is also the responsibility of the employee to communicate immediately to the direct supervisor if city-issued property is damaged, lost, stolen, or in need of replacement.

Items such as keys, security badges, and key fobs can be replaced, however the City may require reimbursement for the cost of the item.

If a pattern of misuse or improper care becomes evident with items such as, but not limited to, cell phones, electronic devices, and computers, employees may be disciplined up to and including termination. It is every employee's responsibility to use the citizens' tax dollars wisely.

Uniforms

Certain positions within the City are provided city-issued uniforms. It is the responsibility of the employee to comply with departmental rules and regulations for proper care and handling instructions of the uniform. It is the employee's responsibility to report any damage, loss, or need of replacement to their direct supervisor immediately.

Uniform Usage

Employees who are required to wear uniforms will be provided uniforms upon employment. Employees who are furnished uniforms must wear the regulation uniform while performing work for the City, except when special circumstances or work conditions exist. Employees may not wear city uniforms for other than city work. However, uniforms may be worn to and from work, when performing specific assigned or approved functions, and while running errands during lunch periods.

Uniform Conduct

No employee, while wearing any city attire, shall purchase, possess, or consume alcoholic beverages or drugs, except prescriptions taken as directed by a licensed physician. Police officers who have confiscated alcohol within the scope of employment are exempt from this policy for that time period.

Uniform Maintenance

The employee will be responsible for all cleaning and care of the uniforms, unless this service is provided under a lease agreement or through a cleaning service utilized by the City. City uniforms must be in good condition. The employee's immediate supervisor will determine whether an employee's uniform is clean and serviceable. Supervisors are responsible for determining the need for uniform replacement. Uniforms damaged due to employee carelessness or negligence will be replaced at the employee's cost.

Uniforms at Termination

Employees who separate employment for any reason must return all designated uniforms and insignia issued by the City. All city-issued items must be returned to the department no later than the final work day, if possible.

Cell Phone Use in the Workplace

The purpose of this section is to promote a safe and productive work environment and increase public safety. This applies to all forms of use, including calls, texting, apps, and social media. This section defines the acceptable usage of personal cell phones in the workplace and public information in respect to city-issued cell phones and personal cell phones used for city business.

The City recognizes that many employees bring cell phones, smart phones, iPads, and tablets to work. Electronic devices may belong to the employee or be provided for the employee's use by the City.

The use of personal cell phones, including those with texting, iMessage, camera, and/or video playing capability, are permitted during work time, as long as the use is minimal and does not become disruptive or interfere with their own or a co-worker's ability to perform their jobs. Personal use should be limited to break times, lunch break, and emergencies. Employees who excessively use their cell phones for personal calls on city time, will be subject to misconduct. Employees who use cell phones to violate city policy, including the Sexual Harassment and other Codes of Conduct policies, will also be subject to misconduct, in accordance with other city policies.

For the purpose of this section, telecommunication electronic devices include, but are not limited to, cell phones, smart phones, iPads, tablets, and any other electronic device capable of calls, data and app usage.

Procedure

- Cell phones, and any other telecommunication electronic devices, shall be turned off or set to silent or vibrate mode during meetings, conferences, and in other locations where incoming calls may disrupt normal workflow.
- Employees may carry and use personal cell phones, and any other telecommunication electronic devices, while at work on a limited basis. If employee's use of a personal cell phone, or any other telecommunication electronic devices, causes disruptions or loss in productivity, the employee may become subject to disciplinary action per city policy.

- If an employee is operating a city vehicle and receives a call on a cell phone, the employee shall pull to the side of the roadway, into a parking lot or other safe location, to respond to the call.

Failure to follow this policy may result in disciplinary action, up to and including termination.

City-Issued Phones

Employees with city-issued cell phones must, when asked by the City, consent to provide the City access to all cell phone and text message records used for city business purposes. Employees using city-issued cell phones have no expectation of privacy in cell phone calls, pictures, or text messages on these phones.

Public Information

Employees are advised that records related to calls and text messages, made and received on city owned cell phones or business calls made on personal cell phones, are public record and may be subject to public access upon request. Information related to telephone numbers called, length of call, and time and date of call, as well as the text message itself may be disclosed and made available to the public through [North Dakota Century Code Access to Public Records](#).

Monitoring of Cell Phone Calls

Inadvertent monitoring of private cellular conversations is possible. Caution should be used whenever confidential or sensitive information must be discussed on a city-provided cell phone.

City Property and Vehicle Use

The City of Williston provides employees with adequate tools, equipment, vehicles and facilities for the job being performed, and the City requires all employees to observe safe work practices and lawful, careful and courteous operation of vehicles and equipment.

Employees must notify their supervisor immediately, if any vehicle, equipment, machinery, tools, or items of issued personal property appear to be damaged or defective or are in need of repair. Any questions regarding an employee's responsibility for maintenance and care of equipment used on the job shall be directed to a department supervisor. Improper, careless, negligent, destructive, unauthorized or unsafe use or operation of equipment, including city vehicles, may result in disciplinary action, up to and including termination.

Personal Use Prohibited

City property, materials, supplies, tools, equipment or vehicles may not be removed from the premises or used for personal business or use without prior written approval by the City Administrator or the department head.

Use of City Vehicles

City-owned or leased vehicles may be used only for official city business. City owned or leased vehicles may only be driven by authorized city employees.

Drivers must have a valid State of North Dakota driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record and must inform their supervisor of any change in driving status.

If an employee drives a personal vehicle, or a city-owned, rented or leased vehicle on the job or while carrying out city-related business, the employee must comply with the following:

- Always observe all state and local traffic and related laws;
- Always wear seat belts when the vehicle is in operation;
- No use of any mobile electronic device while operating a vehicle;
- No passengers, other than city employees or other individuals on city business, may ride in a city vehicle unless otherwise approved in advance by the department head;
- No personal use of city-provided vehicles is allowed without the prior, specific approval of the department head;
- All maintenance and use records for city vehicles must be completed as directed;
- Immediately report any broken, missing, or worn parts, tires, or any other mechanical or maintenance related issues of city vehicles to the appropriate supervisor;
- Under no circumstance are keys to be left inside and vehicles running when the operator is more than ten (10) feet from the vehicle. No vehicle shall be left unattended and idling for any reason. The operator must remove the keys and secure the vehicle;

- All vehicles are to be locked and secured when not in use, during business and non-business hours;
- All drivers must be eligible for coverage under the City's liability insurance policy;
- Drivers covered by the Department of Transportation (DOT) regulations must comply with the DOT regulations at all times;
- At no time may an employee under the influence of alcohol or presence of illegal drugs in their system, drive a city vehicle or a personal vehicle while conducting city business;
- Employees involved in an accident while operating a city vehicle, or while operating a personal vehicle on city business, must immediately notify the proper law enforcement agency (if applicable) and the appropriate supervisor, department head, and/or City Administrator. Accident reports, along with any law enforcement report, must be filed by the supervisor of the employee with the department head and Human Resources. Accidents may be subject to mandatory drug/alcohol testing; and
- City vehicles are subject to examination and/or search and therefore there are no expectations of privacy.

The City may, at any time, check the driving record of an employee who drives as part of the job duties to determine that the employee has maintained the necessary standards and qualifications in order to continue driving privileges under this policy.

The above is not a complete and exhaustive list of appropriate vehicle use. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of a vehicle, may result in loss of driving privilege or disciplinary action.

Personal Property

All employees shall be solely responsible for their personal property at all times.

Firearms in the Workplace

The City of Williston strives to provide a safe and secure working environment for its employees. The purpose of this section is to prohibit weapons in the workplace, thereby minimizing the risk of disruption, injury or harm resulting from violence to employees, property, or city activities.

The City of Williston strictly prohibits the possession of weapons by any employees while in city buildings. If an employee chooses to store a firearm or ammunition, that is legal to carry, in their personal vehicle, it should be stored out of sight and the vehicle must be locked.

Employees are prohibited from carrying a weapon while performing city related business off the City's premises. If an employee uses their personal vehicle while performing city related business, weapons must be kept locked away and out of sight.

EXCEPTIONS: A Peace Officer who is allowed to carry a gun/ammunition in the scope of employment is exempt from this policy.

EMPLOYEES:

If you observe a person openly carrying a handgun and that person is causing a disturbance or behavior that raises concern for safety:

1. You should contact your supervisor or department head for guidance if there is not an imminent threat.
2. If a threat exists or the person openly carrying displays erratic/concerning behavior, you should:
 - a. Move to a safe location;
 - b. Call 9-1-1 so they may dispatch assistance to the site; and
 - c. Notify a supervisor or department head, when you are able.

SUPERVISORS/DEPARTMENT HEADS:

Supervisors, department heads or designee, are responsible for ensuring that employees comply with provisions of this section and to manage issues that arise relating to open carry.

Safety and Risk Management

The City of Williston is committed to providing a safe and healthy work environment for all employees. Safety is the responsibility of every employee, and its success depends on the alertness and personal commitment of everyone. It is the responsibility of all employees to adhere to best safety practices and department protocols. This section applies to all employees, contract laborers, and volunteers, under the City's direction.

Guidelines

A. Report of Accident

The City will take all practical steps to eliminate or reduce an employee's exposure to accidental injury or to conditions which could be injurious to their health. In the case of accidents resulting in injury, employees must immediately complete a Report of Employee Injury/Accident/Incident form. Employees must submit the form to the immediate supervisor as soon as possible. For reporting procedures, please see Chapter 6: Workplace Conditions – Accident and Injury Reporting Procedures.

B. Safety Training

Employees and supervisors receive periodic workplace safety training through city-initiated risk/safety procedures. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards.

C. Reporting Unsafe Acts

Employees shall cooperate with the City by observing reasonable safety regulations and working in a safe manner. Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition(s) to the appropriate supervisor. If an immediate supervisor is unavailable, report to another department supervisor or use the chain of command.

Employees who violate safety standards, cause hazardous or dangerous situations, fail to report, or where appropriate, correct such situations, may be subject to disciplinary action, up to and including termination of employment.

D. Safety Suggestions

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, another supervisor or manager, or bring them to the attention of Human Resources. Reports and concerns about workplace safety issues may be made anonymously, if the employee wishes. All reports can be made without fear of reprisal.

Accident/Injury Reporting and Procedures

Reporting procedures must be followed for reporting accidents/incidents involving:

- City vehicles or personal vehicles when used for city business;
- Injuries on-the-job;
- Patron/Citizen accidents while on city property.

Procedures

A. City Vehicles

If an employee is involved in an accident while operating a city vehicle, or personal vehicle if on city business, that results in injury or property damage, regardless of severity, the employee must:

- Notify the local Police Department;
- Insist that all parties involved remain at the scene until police arrive;
- Notify the immediate supervisor;
- Complete the Employee Accident Report within 24-hours of the accident or injury; and
- Depending on the severity of the accident involving a city vehicle, employee may be required to submit to post accident mandatory drug and alcohol testing immediately within two (2) hours of the accident.

Failure to comply with the requirements listed above, will result in discipline, up to and including termination.

Supervisor Reporting and Responsibility for Accident (Property Only)

It is the responsibility of the immediate supervisor to:

- Interview the employee to obtain details;
- Investigate the incident further to determine probable cause and make recommendations for prevention in the future;
- Complete the Employee Injury/Accident Report and submit to Human Resources within three (3) days of the accident;
- Obtain the police report, if applicable, and attach with the form; and
- Contact the Safety Coordinator to arrange testing. Escort the employee to post accident drug and alcohol testing immediately, if testing is required. If it is after normal business hours, please escort directly to the Emergency Room for testing. The cost for testing will be at the expense of the City.

B. Injuries On-the-Job

If an employee is injured, in any way, on-the-job, the employee must:

- Notify immediate supervisor of the accident and seek treatment if needed.

Please note, no matter how minor the injury is, an employee must report the injury to their immediate supervisor.

For injuries that result in lost time of work and/or ongoing treatment, see the Chapter 3: Employee Compensation and Benefits - Workers' Compensation for further information and procedures.

Supervisor Reporting and Responsibility (Injury/Illness)

It is the responsibility of the immediate supervisor to:

- Interview the employee immediately, if possible, to obtain details. Use the Employee Injury/Accident Report as a guideline of what details to obtain;
- Notify the Human Resources Department and Safety Coordinator immediately with as many details as possible, if injury is severe enough that urgent or emergency care is needed;
- Investigate the incident further to determine probable cause and make recommendations for prevention in the future;
- Complete the Employee Injury/Accident Report and submit to Human Resources within three (3) days of the accident; and
- If immediate treatment is needed, the supervisor must contact the Safety Coordinator or Human Resources Department to arrange for authorization of treatment. If the injury is minimal, treatment can be given by first aid or the Fire Department/EMT. If treatment warrants urgent or emergency care, the employee must be escorted.

C. Patron/Citizen accident on City property

Every department should have procedures in place to report accidents that involve the public. For accidents that involve patrons, citizens, customers while on city property, the supervisor or department head must be notified, and the accident or incident documented using the Public Incident/Accident Report form.

The purpose of this form is to ensure the accident is documented for city liability records, but also to identify if the City needs to take action on repairs, changes, and to take immediate corrective measures if warranted to alleviate or provide notice of dangerous conditions, in order to prevent similar accidents in the future.

The following procedure should occur:

- The Public Incident/Accident Report should be completed, as soon as possible, by the supervisor or department head, or designee; and should include at a minimum the name, address, and contact information of the customer involved;
- The supervisor should collect statements from witnesses and the customer, if possible. Take pictures of the conditions that led to the accident. For example, uneven concrete in front of the building or bleachers that had loose parts. Pictures are helpful to have on record if it's evident that property conditions contributed to the cause of the incident;
- Call 9-1-1 if emergency treatment is needed; and
- Forward the completed incident report as directed on the form within 24-hours of the incident.

Modified Duty

The purpose of this section is to establish the guidelines for offering modified duty in the event of an on-the-job or off-the-job injury.

A modified duty assignment is a temporary reassignment of an employee with an illness, injury, or medical condition that prevents the employee from performing the essential duties of their job classification. The modified duty assignment is one that can be performed within the limitations of the employee's medical condition.

Modified duty assignments are not guaranteed, but will be granted by the department head, when there is a modified duty assignment available, and the employee is qualified to perform and fits within any limitations approved by a licensed physician for the available modified duty assignment. A modified duty assignment may be in the employee's own or another department in the City.

Factors considered by the City in making its decision include, but are not limited to:

- The nature of the employee's illness or injury;
- The medical release provided in support of modified duty;
- The risk that a modified duty assignment may result in aggravation of the employee's injury or illness;
- The type of modified duty work available;

- The length of the employee's employment with the City;
- The employee's performance and disciplinary history; and
- Whether the illness or injury occurred on or off duty.

Employees who are released for and given a modified duty assignment may not perform work duties in violation of their medical release. An employee who violates the terms of the medical release, while on a modified duty assignment, may lose the modified duty assignment and may be disciplined, up to and including termination.

A. Duration

Modified duty will not normally extend beyond sixty (60) calendar days without an evaluation by the employee's treating physician and a recommendation from the department head and Human Resources Director. Employees still unable to return to regular duty within the time limit established for modified duty must re-qualify for modified duty through evaluation by the treating physician or revert to workers' compensation payment, accumulated sick leave, [Family Medical Leave Act](#) (FMLA) or vacation benefits, if available.

During a modified duty assignment, employees will typically work an 8-hour work day, Monday through Friday. This means that 24-hour shift employees, as well as other employees who work a non-traditional work schedule, will usually be temporarily reassigned to an 8-hour work day, Monday through Friday, for the duration of the modified duty assignment.

B. Procedures for Requesting Modified Duty

Non-Workers' Compensation.

An employee, who is not considered a probationary employee, who experiences injury and/or illness that prevents the performance of his or her essential job functions may make a written request for a "modified duty" assignment during recuperation. An employee may request modified duty but is not required to do so. An employee who desires to return to work from a modified duty assignment must provide Human Resources with a written release from the attending physician. The release must include the following:

- The date the employee may return to work in a modified duty assignment;
- The type of restrictions imposed on the modified duty;
- The period of time the restrictions apply;
- The date of the employee's next physician's appointment; and
- The anticipated date of return to the employee's assigned full duty employment.

The City reserves the right, to the extent permitted by law, to require an independent physical analysis/assessment, to insure the employee is able to perform a modified duty assignment.

Workers' Compensation.

Receipt of a completed First Report of Injury may constitute a request for modified duty. The City reserves the right, to the extent permitted by law, to require an independent physical analysis/assessment, to insure the employee is able to perform a modified duty assignment.

C. Modified Duty Offer

Upon receipt of an employee request for modified duty, Human Resources shall review the capabilities and restrictions of the employee. A review of potential work assignments will be conducted with the employee's supervisor, to determine if an assignment is available which matches the employee's training, skills, and/or physical limitations, as determined by the employee's physician.

If available, a modified duty work assignment will be offered, in writing, by Human Resources to an injured or ill employee for a period not to exceed sixty (60) days if:

- A bona-fide work assignment exists within the City;
- The physical requirements of the assignment are within the abilities documented by the treating physician; and
- It is approved by the department head in which the work will take place.

An offer of modified duty shall include:

- The location at which the employee will be working;
- The schedule the employee will be working;
- A description of the physical and time requirements that the position will entail; and
- A statement that the City will only assign tasks consistent with the employee's limitations as instructed by a licensed physician in writing, knowledge, and skills.

Note: There is no obligation for the City to "create" a replacement or part-time position in order to offer a modified duty assignment.

D. Responsibilities of Department heads

Department heads shall work with supervisors to identify possible modified duty assignments when requested by Human Resources. Attempts will be made first to make modified duty assignments in the division and departments in which the ill or injured employee currently works. If placement in the department is not possible, Human Resources will work with other city departments to determine if a modified duty assignment can be found based on the employee's physical abilities and skills.

E. Conditions of Modified Duty

An employee working in a modified duty assignment is subject to all city policies and regulations, and if warranted, is subject to corrective action by the employee's supervisor for the modified duty assignment. The compensation rate may be adjusted to reflect appropriate wages for the modified duty work assignment based on the City of Williston's salary schedule for corresponding position.

As a condition of continuing in a modified duty work assignment, an employee must:

- Adhere to prescribed medical treatment and make reasonable efforts toward rehabilitation;
- Fully perform the modified duties assigned;
- Present to Human Resources and the employee's supervisor monthly progress reports, or after each doctor's visit, whichever is more frequent. The progress report shall state the expected date the employee is able to return to work full duty as well as any physical limitations that may impact the employee's ability to perform the modified duty assignment;
- Accept progressively more demanding assignments as the employee's condition improves; and
- Make progress in returning to assigned full duty employment.

F. Termination of Modified Duty

The City may terminate or amend an employee's modified duty work assignment if:

- The employee's physician modifies the work release;
- The employee is found to be performing beyond the modified duty restrictions;
- The work assignment is completed, and no work assignment exists within the City which suits the employee's abilities and meets the limitations documented by the treating physician;
- The employee performs unsatisfactorily in the modified position;

- The employee's physician fails to release the employee as capable of performing the modified assignment upon examination;
- Budgetary constraints do not allow continuation of modified duty;
- The employee has utilized FMLA and twelve (12) weeks of modified duty in a rolling twelve (12) month period; or
- The employee fails to adhere to this policy and/or regular progress reports to Human Resources.

Health/Medical Examinations – Fit for Duty

The City of Williston endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.

A. Serious Health Condition/Disabilities

The City recognizes that employees with potentially life-threatening and/or infectious illnesses or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

B. Medical Exams for Current Employees

The City is committed to maintaining a safe and productive workplace. In order to provide a safe work environment, employees must be able to perform their jobs in a safe, secure, productive, and effective manner, and remain able to do so throughout the entire course of their employment. Employees who may not be fit for duty, may present a safety hazard to themselves, to other employees, the City, or the public.

The purpose of this section is to establish procedures by which the City may evaluate an employee's fitness for duty. A fitness for duty examination may be required when:

- An employee's conduct creates a reasonable belief that a threat to the health or safety of the employee or others exists; or
- There is objective evidence that the employee cannot perform the essential job functions, in some cases, with or without reasonable accommodation.

The City may require that the fitness for duty exam be conducted by a city approved physician. The cost for a fitness for duty exam, that is initiated by the City, under the guidelines of this section, will be the responsibility of the City department initiating the fitness for duty exam, and will be conducted while the employee is on either paid or unpaid leave status, based on the circumstances surrounding the fitness for duty exam request.

Information obtained from a fitness for duty examination will be maintained on a confidential basis, in accordance with applicable law.

C. Medical Information from an Employee's Doctor

Under certain circumstances (i.e., FMLA Certifications), Human Resources may require employees to provide specific condition diagnosis and prognosis documentation from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

D. Medical Records

Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information, on a need-to-know basis, with an executed HIPAA release, may be provided to supervisors and managers, first aid and safety personnel, government officials, North Dakota Workforce Safety, and as necessary for insurance and other business-related purposes.

E. Return to Work/Fitness for Duty

Before returning to work following a medical and/or psychological examination under this section, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification from a licensed physician before returning to work.

F. Time Off from Work

Time away from work undergoing a city mandated fitness for duty examination will normally be considered paid leave and may be retroactively changed to sick leave, Family and Medical Leave, and/or other leave as circumstances warrant.

Grievances

This section provides guidelines for discussing and resolving grievance matters, and procedures to follow when those matters are not resolved to the employee's satisfaction. A formal process improves employee morale, relieves immediate supervisors of ongoing disputes, and helps ensure that disagreements or other problems are addressed in a prompt and orderly fashion.

The scope of a grievance is limited to the inappropriate or inconsistent application of a written policy, the employee's status, or conditions of employment. No employee will retaliate against a grieving employee.

Any person who is responsible for receiving and responding to a grievance should interview the grieving employee and other applicable employees, and review as many relevant documents as necessary, in order to thoroughly respond.

Procedure

An employee who believes to be the subject of a grievance is strongly encouraged to discuss the matter with an immediate supervisor – minimally, in an informal manner. The immediate supervisor shall attempt to resolve the matter within three (3) business days. Nothing shall preclude the employee from filing a formal grievance initially.

1. If the complaint or grievance cannot be settled between the employee and the employee's supervisor, the matter shall be presented, in writing, by the employee or the employee's representative to the department head. The grieving employee may attach documents the employee feels is pertinent to the grievance. The department head shall attempt to resolve the matter within five (5) business days.
2. If the complaint or grievance cannot be settled at this point, the matter shall be presented, in writing, by the employee or the employee's representative to the Human Resources Director. The Human Resources Director shall attempt to resolve the matter within fifteen (15) business days.
3. If the complaint or grievance cannot be settled between the employee, the employee's supervisor, the department head, and the Human Resources Director, the matter shall be presented, in writing, by the employee or the employee's representative to the City Administrator. The City Administrator shall issue a written decision within fifteen (15) business days. The decision of the City Administrator shall be final.

CHAPTER 7: CONCLUSION

We want your experience in the City of Williston to be positive and professionally rewarding. The information contained in this handbook will help ensure we are fair and consistent to all our employees and helps to assure you of a healthy working environment.

Thanks for being part of our team!



David Tuan
City Administrator

Conclusion: Employee Handbook Acknowledgement and Receipt

This handbook has been prepared to inform you about the City of Williston's philosophy, employment practices, and policies, as well as the benefits provided to you as a valued employee and the conduct expected from you. This employee handbook is an important document intended to help you become acquainted with the City of Williston and for all employees to know, reference, understand, and follow. This handbook will serve as a guide; it is not the final word in all cases, it is not all-inclusive. Individual circumstances may call for individual attention. Any discrepancies between departmental policies and procedures and the City of Williston Employee Handbook, the Employee Handbook will take precedence.

Because the general business atmosphere of the City and economic conditions are always changing, the contents of this handbook may be changed at any time at the discretion of City Administration. No changes in any benefit, policy or rule will be made without due consideration of the mutual advantages, disadvantages, benefits and responsibilities such changes will have on you as an employee and on the City of Williston.

Please read the following statements and sign below to indicate your receipt and acknowledgment of the City of Williston Employee Handbook.

City of Williston Employee Handbook Acknowledgment and Receipt

I have received my copy of the City of Williston Employee Handbook.

I understand that the policies, rules and benefits described in it are subject to change at the sole discretion of the City of Williston at any time. I understand that this handbook replaces (supersedes) all other previous manuals or handbooks for the City of Williston. If and when provisions are changed or added, I will be notified of the changes made to this handbook. A paper copy of this handbook is available in the Human Resources Office.

I understand that, should the content be changed in any way, the City of Williston may require an additional signature from me to indicate that I am aware of and understand any new policies.

The employee handbook describes important information about the City of Williston, and I understand that I should consult Human Resources personnel regarding any questions not answered in the handbook. I have entered into my employment relationship with the City of Williston voluntarily and acknowledge that there is no specified length of employment. Accordingly, either I or the City of Williston can terminate the employment relationship at-will, with or without cause, at any time, so long as there is not violation of applicable federal or state law.

I acknowledge that this handbook is neither a contract of employment nor a legal document. I understand and agree that employment and compensation may be terminated with or without cause and with or without notice at any time by the City of Williston.

I understand that as a condition of employment with the City of Williston, I am subject to random drug and alcohol testing compliance with the City of Williston Drug-Free Workplace Policy.

I understand that my signature below indicates that I have received the handbook, and I understand that it is my responsibility to read and comply with the policies and procedures contained in this handbook and any revisions made to it.

Employee Signature

Employee Name (Print)

Date

TO BE PLACED IN EMPLOYEE'S PERSONNEL FILE