

CITY OF KENMARE
PERSONNEL POLICY MANUAL

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**CITY OF KENMARE PERSONNEL MANUAL
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MANAGEMENT RIGHTS

The guidelines, policies and procedures set for in this handbook are for the purpose of providing general information to City employees about the City's operating policies and guidelines concerning employment and other matters.

The direction of the work force is the responsibility of the City Governing Body; which will continue to have all rights customarily reserved to management, including the right to hire, promote, transfer, discipline, or discharge; the right to relieve employees from duty because of lack of work or other reasons; the right to schedule hours or require work; the right to establish and to modify administrative policies, compensation programs, and rates of pay; and the right to establish procedures and rules pertaining to all operations and activities of the City.

The rights, powers, or authority exercised by the City are retained by management in accordance with state and federal laws and local ordinance.

GENERAL POLICIES

EQUAL EMPLOYMENT POLICY

It is the policy of the City to recruit, hire, train, promote employees, and administer all personnel actions without regard to race, color, religion, sex, age, national origin, disability, marital status, public assistance, or participation in lawful activity off the employer's premises during non-working hours which does not directly conflict with the essential business interests of the City, in accordance with applicable laws. The City will not tolerate any discrimination, and any such conduct is prohibited. The City also prohibits any form of discipline or retaliation for reporting incidents.

HARASSMENT

It is the City's goal that all employees will enjoy a safe work place free from unreasonable interference, intimidation, hostility, or offensive behavior on the part of managers, co-workers, or visitors. Therefore, it is the City's policy to maintain a productive work environment free from harassment of any kind and from any source, and to treat all complaints fairly and equitably.

Harassment based on an individual's race, color, religion, sex, national origin, age, disability, marital status, pregnancy, status with regard to public assistance, or participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer is unlawful under state and federal laws and is strictly prohibited.

The City also strictly prohibits harassment, based on any other factor.

If an employee has a complaint about harassment, the City's main concern is to have the harassing behavior stopped and to have the matter resolved as quickly and efficiently as possible. The procedures to follow are:

1. Be sure that the conduct is discriminatory or harassing. If possible, find witnesses or other substantiation of the conduct.
2. Discuss the improper behavior with the person(s) involved to let them know their conduct is offensive.
3. If the harassment does not stop or if it recurs, the employee should report the conduct perceived as harassment as soon as possible to his/her supervisor, or to the City Governing Body if the complaint involves the supervisor.

4. The City Governing Body or supervisor will conduct a complete investigation concerning the complaint in an impartial and confidential manner, with the results being conveyed to all involved individuals. Every reasonable effort will be made to determine the facts and resolve the situation.

The City has the right to apply any sanction or combination of sanctions to deal with unreasonable conduct or harassment, including:

1. Counseling with the offender(s);
2. Probation with a warning of suspension or termination for continuing or recurring offenses;
3. Suspension, with or without pay, depending on the seriousness of the charge.
4. Termination of employment.

These actions may be taken in any order, depending upon the seriousness of the situation. The City's responsibility is to treat all employees with dignity, sensitivity, and respect. Each employee is expected to use common sense in determining whether his/her conduct may be offensive or unwelcome to another.

SEXUAL HARASSMENT POLICY

While all forms of harassment are prohibited, it is important to emphasize that sexual harassment is specifically prohibited.

Sexual harassment is a form of sex discrimination which is prohibited by law. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition of employment, either explicitly or implicitly; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or work performance, or creates an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include inappropriate touching or feeling that is unwelcome; sexual innuendoes and comments and sexual remarks about a person's clothing, body, or sexual activities; jokes about sex which the employee finds offensive; sexual propositions or demands for sexual favors; posting obscene pictures, drawings, or cartoons in the work place; or making obscene gestures. These are some of the common complaints, but many other types of conduct can also constitute sexual harassment.

As with other types of harassment, if an employee has a complaint about sexual harassment, the main concern is to have the harassing behavior stopped and to have the matter resolved as quickly and efficiently as possible. The procedures to follow are:

1. Be sure that the conduct in question is discriminatory or harassing. If possible, find witnesses or other substantiation of the conduct.
2. The employee should discuss the improper behavior with the person involved to let him/her know the conduct is offensive.
3. If the harassment does not stop or if it recurs, the employee should report the conduct perceived as harassment as soon as possible to his/her supervisor or to the City Governing Body if the complaint involves the supervisor.

4. The City Governing Body or supervisor will conduct a complete investigation concerning the complaint in an impartial and confidential manner, with the results being conveyed to all involved individuals. Every reasonable effort will be made to determine the facts and resolve the situation.

The City has the right to apply any sanction or combination of sanctions to deal with unreasonable conduct or discrimination, including:

1. Counseling with the offender(s);
2. Probation with a warning of suspension or termination for continuing or recurring offenses;
3. Suspension, with or without pay, depending on the seriousness of the charge; and or
4. Termination of employment.

These actions may be taken in any order depending upon the seriousness of the situation. It is the City's responsibility to see that all co-workers are treated with dignity, sensitivity, and respect. Each employee is asked to use common sense in determining whether his/her conduct may be offensive or unwelcome to another.

ALCOHOL & CONTROLLED SUBSTANCE FREE WORKPLACE

Statement of Philosophy: In accordance with the Federal Drug-Free Workplace Act and the North Dakota Workforce Safety and Insurance's Risk Management Program, it is the City of Kenmare's intent to establish a policy to maintain a safe and productive work environment for all employees by preventing accidents or other dangerous incidents that may result from drug or alcohol use.

Policy: The City of Kenmare has a zero tolerance policy for the use of drugs and alcohol by its employees. Employees may not possess or consume alcoholic beverages or controlled substances in City buildings, offices, vehicles, or while driving or doing business on behalf of the City. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on any work site and during all working hours by employees. No employee will be allowed to perform job duties or official duties when ingesting mind altering drugs, illegal drugs and/or alcohol during working hours.

Testing Guidelines

1. Post-offer pre-employment testing for drugs and alcohol will be conducted on all employees performing safety-sensitive functions or those required to have a commercial driver's license (CDL). Random testing on these employees will be conducted in compliance with DOT regulations.
2. Testing for drugs or alcohol of any current employee will be conducted when a supervisor has reasonable suspicion an employee is violating policy.
3. Testing will be conducted on any employee involved in a motor vehicle accident using a City vehicle, or if using a personal vehicle driving for City business when City liability could be affected.
4. Employees requiring drug or alcohol testing because of motor vehicle accidents or determination of probable cause will be transported to and from the testing site by a supervisor or Department Head. Under no circumstances will the employee provide their own transportation.
5. Should the test results for drugs or alcohol be positive, a confirmation test will be conducted. Once the test is verified as positive, the employee may not return to work until directed by the City.
6. Any employee's refusal to be tested may be considered cause for dismissal.

If an employee receives a positive test, the employee will immediately be suspended pending an investigation. Pending completion of the investigation the City will take appropriate disciplinary action up to and including termination of employment.

Employees shall also be held responsible to notify the City of any criminal charge or conviction of drug and/or alcohol violations within five days of the incident. Failure to disclose this information will result in disciplinary action.

Employees who are on prescribed medication or prescribed controlled substances must disclose the effects of these drugs if they may compromise the ability to operate safety sensitive equipment or restrict alertness in the workplace. Medical certification will be required to verify that prescribed substances will not cause impairment.

Employees are hereby notified that compliance with this policy is a condition of employment. If an employee fails to comply with this policy he/she will be subject to disciplinary action. The City reserves the right to initiate a drug or alcohol test for a pre-employment test, random testing, post accident/incident, and reasonable cause according to the federal and ADA guidelines.

If an employee is convicted of a criminal drug violation for manufacturing, distributing, dispensing, possessing, or using controlled substances, he/she must notify his/her supervisor within five (5) days of the conviction. Pursuant to federal law, if the convicted employee is working on a project funded through a federal contract or grant, the City is required to notify the relevant federal contracting or granting agency within ten (10) days of receiving such notice of conviction.

An employee who suspects that a co-worker is under the influence of alcohol or other drugs should contact his/her supervisor immediately. An employee who suspects that a supervisor is under the influence of alcohol or other drugs should contact the next level of supervision.

[If an employee requests, information on any available alcoholism, drug-counseling, rehabilitation and employee assistance program will be given to him/her and he/she will be afforded the opportunity to participate in an appropriate program. Some of the cost of such treatment may be covered by the employee's health insurance. An employee will be allowed a leave of absence to enter a treatment and rehabilitation program. An employee will be allowed to use up to 30 days of earned annual leave or sick leave. If no such balance of earned annual leave or sick leave exists, a leave of absence up to 30 days without pay may be granted.]

**Note: Under the Americans with Disabilities Act (ADA), illegal drugs are defined as "controlled substances" which are not being taken under the supervision of a licensed health care professional or otherwise in accordance with federal law.*

SMOKE-FREE ENVIRONMENT

The City's buildings and property, including vehicles and equipment, are smoke-free. No smoking is allowed.

STANDARDS OF CONDUCT

To ensure the citizens can have confidence in the integrity of City government, all City employees are expected to maintain high standards of ethical service at all times. Employees are expected to put forth honest effort in performance of their duties; act impartially; protect and preserve City property; disclose waste, fraud, abuse and corruption to the proper authorities; refrain from using public office for private gain; and adhere to all laws and regulations that provide equal opportunity for all persons regardless of race, color, religion, sex, national origin, age or disability.

Listed below are examples of actions that could lead to disciplinary measures, up to and including termination of employment:

1. Possession and/or use of alcoholic beverages or illegal drugs at work or reporting to work under the influence.
2. Destruction, damage, or misuse of City property.
3. Removal of City property or another employee's property without prior consent.
4. Violation of City ordinances or official written policies of the governing board or department.
5. Failure to carry out the directions of a supervisor.
6. Violation of health and safety rules.
7. Fighting on City property.
8. Carrying weapons or explosives on City property or any other violation of criminal laws.
9. Disruptive, harassing, or offensive behavior.
10. Excessive absenteeism.
11. Excessive tardiness.
12. Falsification of personnel records.
13. Falsifying time reports.
14. Theft.

This list only provides examples and is not intended to be all-inclusive.

POLITICAL ACTIVITIES AND MEMBERSHIP IN ORGANIZATIONS

An employee may not engage in political activity while on duty or in uniform. This prohibition should not serve to limit the ability of employees to work for the passage of state and federal legislation when the activity is approved by the City governing board.

Nothing in this section shall prevent any City employee from becoming or continuing to be a member or officer of an employee organization or political organization, or otherwise engaging in political activities while off duty. (NDCC 34-11.1-02, 03)

OUTSIDE EMPLOYMENT

City employees are permitted to engage in additional employment outside of City employment which is not in direct conflict with the essential business-related functions of the City; however, each employee must continue to meet the City's work attendance and performance standards.

EMPLOYMENT OF RELATIVES

The City does not restrict employment of more than one member of a family or persons related by law or marriage. For purposes of this policy, immediate family includes the following relationships (natural, adoptive, step, and foster relationships are included): parent, child, spouse, sibling, grandparent, and in-law.

To avoid potential conflicts, no City employee may take part in decisions to hire, retain, promote, or determine the salary of his or her immediate family. In addition, no City employee may be assigned responsibility for supervising and/or directing the work of an immediate family member.

EMERGENCY CLOSINGS

At various times throughout the year, primarily winter months, weather conditions may require that for the safety and well being of the employees and their families that work schedules are adjusted.

All employees are responsible to report to work on time regardless of the weather conditions unless notified by the Mayor not to report for work. Employees who feel their personal safety is at risk should exercise their own judgment in setting out for work. If the employee decides not to report to work, every effort shall be made to notify the Mayor as soon as possible.

Employees reporting late for work, leaving work early, or not reporting for work at all because of inclement weather or road conditions unique to their situations may use vacation leave or unpaid leave for the site absent from the job.

EMPLOYMENT STATUS

AT-WILL EMPLOYMENT

Unless otherwise provided, all employment with the City is on an “at-will” basis and may be terminated at the will of either party upon notice to the other. (NDCC 34-03-01)

Terms and conditions of employment of appointive officers shall be as provided by NDCC 40-14-05, terms of appointive officers, and 40-08-19, removal of appointive officers, under the council form of government. Terms and conditions of employment of appointive officers shall be as provided by NDCC 40-15-06, terms of appointive officers, and NDCC 40-15-07, removal of appointive officers, under the city council.

REGULAR FULL TIME

Employees who occupy positions that are approved and budgeted, have no specific duration of employment and who have an assigned work week of not less than 40 hours are classified as regular full time employees. A regular full time employee is eligible for all benefits.

REGULAR PART TIME

Employees who occupy positions that are approved and budgeted, have no specific duration of employment and who have an assigned work week of less than 40 hours are classified as regular part time employees. Regular part time employees are eligible for certain benefits as outlined in the benefits and leave sections of this policy manual.

TEMPORARY OR SEASONAL

Temporary positions may be created to meet special needs. Temporary positions can either be full time or part time positions.

A temporary or seasonal employee is one who is employed for a maximum duration. A temporary or seasonal employee is paid on an hourly basis and is not eligible for benefits.

RECRUITMENT FOR CITY EMPLOYMENT

JOB OPENINGS

Supervisors and department heads who need to fill a job opening or who want to add a position must submit a request to the City Governing Body for approval. As an equal opportunity employer, it is the City’s policy to welcome job applications for open and posted vacancies.

The City will attempt to fill job openings above entry level by promoting from within if qualified internal applicants are known to be available. Whether an open position is advertised internally and/or externally will be determined by the department head and City Governing Body on a case-by-case basis. Position

vacancy announcements may include such information as a general description of the duties of the position, qualifications and salary range.

JOB APPLICATION PROCEDURES

Every potential candidate, including current employees, must submit an application or resume with references to be considered for an opening. Applications must specify the position sought; an application for “any job” will not be retained.

JOB TRANSFERS

Employees may transfer from one position to another, provided the individual is qualified for the vacant position. In the event of transfer, the employee’s sick leave and annual leave accrual becomes the obligation of the department to which the employee transferred.

SALARY ADMINISTRATION

JOB CLASSIFICATION SYSTEM

To ensure the City’s employees are paid in a manner consistent with the work performed, jobs are classified according to responsibilities, qualification requirements and skill level required.

The City Council is responsible for developing and administering the job classification system. Written job descriptions are prepared for each position in the City. Each job is evaluated and ranked using a standardized rating system that measures the job content and/or worth of the job. A salary range is assigned to each classification and provides for a range of minimum to maximum rates. Employee compensation within any grade classification is based on such factors as experience, individual productivity and merit.

The City Governing Body will evaluate all new positions and review, on a periodic basis, all job descriptions and classifications to assure they accurately reflect current market conditions. Employees may request that jobs be reevaluated or reclassified.

PROBATIONARY PERIOD

Every newly hired employee is considered a probationary employee for the first three months of employment. This period allows the City to evaluate the new employee and allows the employee to become knowledgeable about the City’s work conditions.

Regular full-time employees are eligible for benefits (excluding use of annual leave) during the probationary period.

Periodic meetings will be scheduled during the probationary period between the new employee and direct supervisor for the purpose of reinforcing positive performance, correcting any areas that need improvement, and answering any questions the new employee may have.

Employees needing accommodations to perform the essential functions of their job should request such accommodations from their direct supervisor in writing at any time either during or after the probationary period.

Probationary employees can be terminated with or without cause. At the discretion of the supervisor, the probationary period may be extended. Completion of the probationary period does not alter the employment at-will status of the employment relationship.

PERFORMANCE EVALUATION

Each employee is expected to perform assigned duties and responsibilities in a satisfactory manner as defined by the individual's supervisor. The supervisor will monitor employees' performance and provide feedback on work performance.

At least once a year, each employee's work performance will be formally reviewed by his/her supervisor. The supervisor will complete a written evaluation of work performance, individual strengths, and areas for improvement or development. Each employee will have an opportunity to provide written comments/response on the review. The evaluation will be signed by the supervisor and the employee to indicate the material has been reviewed and discussed. A copy of the review form is provided to the employee and a copy is placed in his/her personnel file.

COMPENSATION

SALARIES AND WAGES

The City recognizes the effective delivery of services to citizens depends on the effective and efficient performance of City employees. The City endeavors to pay fair wages and salaries in order to attract and retain competent personnel. Further, the City attempts to pay wages and salaries that are comparable to the prevailing rates for similar jobs, to the extent funds are available.

Primary factors in setting wages and salaries include scope of work and skills required for the position. At the time each employee's performance is reviewed, other factors, such as merit, may result in individual pay adjustments.

The City Council is responsible for coordinating the ongoing review of all compensation, for ensuring each job is evaluated, and each position is assigned a pay grade or salary range. This yearly review will determine whether compensation accurately and fairly reflects job responsibilities.

Supervisors are responsible for conducting a compensation review in conjunction with a performance review with each employee at least annually. Adjustments to an individual's compensation will be based on performance and budget considerations.

PAYCHECKS

Generally, paychecks are issued on the fifteenth (15th) and end of the month. If the payday falls on a weekend or holiday, paychecks will be available the previous business day, at the office of the City Auditor.

For the purpose of calculating such items as leave time used, overtime accrued, and hourly pay, the City will follow a semi-monthly pay cycle. The number of days in this cycle will consistently contain between 14 and 17 calendar days. The cutoff date on this cycle shall be the 9th and the 24th prior to payday. Any future changes to payroll accounting or pay cycle must be communicated to employees at least 15 days in advance.

A pay stub or statement will be provided each pay period indicating hours worked, the rate of pay, required state and federal deductions and any deductions authorized by the employee or ordered by the court.

PAYROLL DEDUCTIONS

The City is required by law to deduct social security tax, Medicare tax, federal income tax and North Dakota state income tax. (NDCC 57-38-59) Court ordered pay deductions shall also be made by the City.

FLEXIBLE SCHEDULING (ADJUSTED WORK HOURS)

Flexible Scheduling is an alternative work schedule approved by an employee's supervisor. Employees may work an alternative flexible schedule as long as service to the public remains available during normal working hours (9am-4pm for the City Office) and (8am-5pm for the Public Works Department).

OVERTIME/COMPENSATORY TIME

Overtime/Compensatory Time must be approved by the employee's supervisor prior to working. Approved overtime/compensatory time is paid to employees who work in excess of 40 hours per week (80 hours per 14-day work period for the police department staff). Full-time staff are eligible for overtime paid at time-and-a-half per hour of overtime worked or as compensatory time, awarded at one-and-one-half time for every hour worked over 40 hours per week.

BENEFITS

GENERAL

Employees are eligible for benefits depending upon employment status. Some benefits are subject to state laws and regulations. If such laws and regulations change, these benefits may change accordingly.

Regular full-time employees: Regular full-time employees are eligible for workers' compensation, social security and unemployment compensation. A regular full time employee is eligible to participate in the City's NDPERS retirement plan. The City of Kenmare contributes the state rate of the employee's gross wages; employees have the option of enrolling in the health insurance policy with the City of Kenmare paying a share of the policy. Each employee is entitled to a life insurance policy that the City pays up to \$3 per month towards the premiums through PERS. If the employee chooses for more coverage, up to a total of \$400,000.00, they pay by a payroll deduction. The employee can choose to put money into a deferred comp plan NDPERS-PEP as a payroll deduction. Each regular full-time employee is eligible to earn annual leave and sick leave. A regular full time employee will receive paid holiday leave. Bereavement leave and jury or witness leave are available as outlined in the leave policies. Regular full-time employees are also eligible to receive \$30 per month from the city to use towards supplemental insurance plans. It is the responsibility of the employee to designate which policy this allowance is applied. Employees will not receive this allowance directly but as a payroll deduction applied directly to the policy.

Regular part time employees: Regular part-time employees are eligible for social security and workers' compensation insurance. Regular part time employees may be eligible for unemployment compensation insurance benefits if they were paid qualifying wages during a base period established under state law (NDCC 52-01-01, 52-06-04). Other benefits are not available to regular part time employees.

Temporary or seasonal employees are eligible for social security and workers' compensation insurance. Temporary or seasonal employees may be eligible for unemployment compensation insurance benefits if they were paid qualifying wages during a base period established under state law (NDCC 52-01-01, 52-06-04). Temporary or seasonal employees are not eligible for other benefits.

For eligible employees, all insurance benefits are effective on the first day of the month after the employee is hired or immediately, if employment begins on the first day of the month. Any employee costs for insurance are determined annually by the City Governing Body.

WORKERS COMPENSATION

City employees are covered by Workers’ Compensation Insurance as required by law to protect employees who are injured on the job. (NDCC Chapter 65-05)

If a work-related accident or injury occurs, the employee must inform his/her supervisor immediately. Claim forms are available from the supervisor or department head. A claim form must be completed according to instructions and given to the department head.

SOCIAL SECURITY AND MEDICARE

Social Security and Medicare contributions are deducted from employees’ paychecks in accordance with applicable federal and state laws (NDCC 57-38-59). Employee contributions are matched by the City.

UNEMPLOYMENT COMPENSATION

Unemployment taxes are paid to the state by the City in accordance with the state’s unemployment compensation law (NDCC Title 52).

An employee leaving City employment for any reason may contact Job Service ND regarding unemployment benefits, including a determination of eligibility.

GROUP HEALTH INSURANCE

See benefits.

RETIREMENT

See benefits.

LEAVE

ANNUAL LEAVE

Annual leave is an approved absence from work with pay for vacation or for other purposes. It is earned by each eligible employee at a rate between 8 and 14 hours per month based on the employee’s length of service.

Annual leave is earned as follows:

<u>Months/years of Service</u>	<u>Hours Per Month</u>
0 through 36 (1 - 3 years)	8
37 through 84 (4 - 7 years)	10
85 through 144 (8 - 12 years)	12
144 + months (13 + years)	14

No annual leave can be used during the probationary period but 24 hours of annual leave accrues and becomes available after successful completion of the 3-month probationary period. Beginning with the fourth month, annual leave is earned at a rate of 8 hours per month. For purposes of determining months/years of service counted towards annual leave step-up the City considers hours worked as an intern, seasonal help, or coop student towards months/years of service at a rate of 174 hours per month.

Up to annual accrual of annual leave may be carried over from one year to the next. Hours in excess of annual accrual on December 31 of each year will be lost. All earned, unused annual leave is payable [at the employee’s current hourly rate] to the employee upon resignation, termination, or retirement.

SICK LEAVE

Sick leave is an approved absence from work with pay when an employee is ill or in need of medical care. In certain circumstances, up to 40 hours may be used when there is an illness or medical need in the employee's family.

A regular full-time employee earns six hours of sick leave per month. Regular part time employees earn a prorated amount based on the number of hours worked in the month.

An employee may donate up to 40 hours of sick leave, in a twelve-month period. Any employee who donates time must keep a minimum of 40 accrued hours.

All accrued, un-used, sick leave is carried over from one year to the next with a cap of 500 hours.

Upon resignation, termination, or retirement sick time will not be paid out.

FAMILY MEDICAL LEAVE

This section provides basic information on the Family Medical Leave Act (FMLA). If an employee believes he/she may be eligible for family medical leave (FML), the employee should notify his/her supervisor who will provide more detailed and specific information about applying for FML.

All City employees should be aware of the following with regard to FML:

FML is an unpaid leave of absence available for the birth of the employee's newborn and to care for the employee's newborn; for the placement of a newly adopted or foster child and to care for a newly placed adopted or foster child; to care for the employee's spouse, son, daughter, or parent who has a serious health condition; or for a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's job.

City employees are eligible for FML if they:

- Work for a covered employer;
- Have worked for the employer for a total of 12 months;
- Have worked at least 1,250 hours over the previous 12 months; and
- Work at a location where the public employer employs at least 50 employees within 75 miles of the worksite.

Up to 12 weeks of leave will be allowed in a twelve-month period.

Employees eligible to take FML are required to use accrued paid leave during the authorized leave of absence. Employees will first use any available sick leave and then use any accrued annual leave in conjunction with authorized FML taken for any reason other than an employee's own serious health condition. Employees will first use any accrued sick leave and then use any accrued annual leave in conjunction with any authorized FML taken because of an employee's own serious health condition. Employees who have exhausted the applicable types of paid leave will be provided unpaid leave to fulfill the remaining authorized period of FML.

It is the employer's duty to notify the employee if/when requested leave qualifies for FML. When requesting leave for a serious health condition that the City determines may qualify for family medical leave, an employee may be required to supply a physician's verification of the condition stating that the condition is serious and that the employee will be unable to perform one or more

essential functions of his or her job as a result of the condition. An employee may be required to submit to an examination by a physician selected and paid for by the City.

An employee may be required to furnish periodic verbal or written reports to the supervisor or division director indicating his/her status and intent to return to work.

The City will continue to pay the employer's share of the health plan coverage during the period of FML. If an employee fails to return from FML, the City may recoup the cost of health plan premiums for any period of the leave, which was taken as unpaid leave.

Employees who are using the required paid leave will continue to receive or accrue benefits as normally provided employees on paid leave. Employees who are provided with unpaid leave status will not accrue annual or sick leave during the period of unpaid leave.

The FMLA program is complex. Any employee needing more information is encouraged to discuss the subject with his/her supervisor.

HOLIDAY LEAVE

The City observes the following as paid holidays for employees eligible for the paid holiday benefit:

1. The first day of January, this is New Year's Day.
2. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
3. The third Monday in February, in recognition of the birthday of George Washington.
4. The Friday next preceding Easter Sunday and commonly known as Good Friday.
5. The last Monday in May, this is Memorial Day.
6. The fourth day of July, which is the anniversary of the Declaration of Independence.
7. The first Monday in September, this is Labor Day.
8. The eleventh day of November, which is Veteran's Day.
9. The fourth Thursday in November, which is Thanksgiving Day.
10. The twenty-fifth day of December, this is Christmas Day.
11. Christmas Eve day will close at noon.
12. New Years Eve will close at noon.

If the first day of January, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December falls upon a Sunday, the Monday following shall be the holiday. If any of these holidays fall on a Saturday, the Friday immediately before shall be the holiday. (NDCC 1-03-01)]

BEREAVEMENT LEAVE

Five (5) days paid bereavement leave is available to employees who experience the death of an immediate family member (spouse, parent, child, sibling or spouse's parent or sibling).

Three (3) days paid bereavement leave is available to employees who experience the death of a grandparent or spouse's grandparent.

One (1) day paid bereavement leave is available to employees who experience death of an Aunt, Uncle, Niece, or Nephew.

Bereavement leave is paid leave that is to be deducted from the employee's accrued sick leave.

JURY AND WITNESS LEAVE

The City will pay the difference between jury pay and regular base pay, providing the employee furnishes proof of service and payment from the court.

An employee may use annual leave to perform jury duty and keep any jury duty payment.

MILITARY LEAVE

Military leave must be granted in accordance with NDCC 37-01-25 and 37-01-25.1 for employees who:

1. Are members of the National Guard;
2. Are members of the armed forces reserves of the United States of America;
3. Shall be subject to call in the federal service by the President of the United States; or shall volunteer for such service.

Employees should request military leave with as much advance notice as possible. Additional information is available from the North Dakota National Guard (701-224-5242).

LEAVE OF ABSENCE

Leave without pay may be granted to full-time or part time employees who have maintained a satisfactory employment record.

An employee requesting a leave of absence without pay shall submit the request in writing the Mayor. The request should state the date the employee wishes to begin leave, the date the employee would return from leave, and the reason for the leave request. The City will evaluate each request on a case-by-case basis and will make a determination whether to honor a request for an unpaid leave. If an employee's leave of absence request qualifies as FML under the FMLA, the City will notify the employee.

LEAVE DOCUMENTATION

Prior to taking leave, an employee taking leave of any kind is required to complete a leave form and have it signed by his or her supervisor. In the event of illness, a leave form detailing the sick leave used should be completed immediately upon returning to work.

Annual leave requests will be considered on a first-come, first-served basis in the event two or more employees wish for the same time off and it is not possible to honor all requests.

MISCELLANEOUS POLICIES

OPEN RECORDS

Except as otherwise specifically provided by law or court order, all records of public and governmental bodies, bureaus, commissions or agencies of any political subdivision supported in whole or in part by public funds shall be public records, open and accessible for inspection during reasonable office hours. (NDCC 44-04)

The City has a duty to properly safeguard and protect its records and to assure that the confidentiality of records closed under the law is maintained.

PERSONNEL RECORDS

The City will keep a file of employment records for each employee. Information in an employee's personnel file includes information needed to administer employee benefits and payroll, to complete required federal and state reports, and to record employee work performance.

In accordance with NDCC 44-04-18 and except as otherwise provided by law, municipal personnel files are public records and are open to inspection by the public and the employee. The following items are not exempt from the open records law:

- Wage history
- Job classification
- Performance evaluations
- Non-medical leaves of absence

Except as otherwise provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or political subdivision by the employee in the course of employment is exempt. (NDCC 44-04-18.1)

Examples of personal information are:

- Home address
- Home telephone number
- Photograph
- Medical information
- Motor vehicle operator's identification number
- Social security number
- Payroll deduction information
- Name, address, phone number, date of birth and social security number of any dependent or emergency contact
- Credit, debit or electronic fund transfer card number
- Account number at a bank or other financial institution
- Insurance and pension beneficiaries

Medical records or reports, including those that relate to an occupational illness or injury and records of use of an employee assistance program, will be kept in a separate file from employee records in accordance with NDCC 44-01-18.1. These records will be kept confidential and will not be released without the written consent of the employee.

In accordance with NDCC 44-04-18.3, the telephone numbers and addresses of all law enforcement personnel are confidential and shall not be made available to the public. If this information is recorded with other employee information that is public in nature, the City shall permit the inspection and receipt of copies of the public information that is not confidential, but shall delete or withhold the confidential information. The City shall not deny a request for public information on the grounds that the information is recorded with confidential information.

The permanent records, including personal contact information, should be kept up to date. Each employee should notify his/her supervisor of any change in contact information. Employment records shall be kept in the file, along with the Employment Eligibility Verification Form (I - 9), which must be completed within three days of starting employment.

RECORDS RETENTION

The retention and final disposition of city records shall be governed by the uniform system established by the North Dakota Office of Management and Budget for the retention and final disposition of records. (NDCC 54-46-12)

ELECTRONIC COMMUNICATIONS

The City has established a policy regarding access to and disclosure of electronic mail messages created, sent, or received by City employees using the City's electronic mail system, computer network or city owned cell phones. **It is important for all employees to understand that the City is subject to the North Dakota open records laws; therefore, all non-exempt records or information contained on computers or telephones are subject to disclosure upon request of any citizen.**

The City's electronic communications policies are:

1. The City maintains an electronic mail system. The system is provided to assist in the conduct of City business.
2. The electronic mail system, hardware, and all computers are City property. Additionally, all messages composed, sent, or received on all electronic systems are, and remain, the property of the City. They are not the private property of any employee.
3. The use of the electronic mail system and computers is reserved solely for the conduct of business at the City. They may not be used for personal business.
4. The electronic system or computers may not be used to solicit for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
5. The electronic mail system and computers may not be used to create any offensive or disruptive messages. Among those considered offensive are any messages containing sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin, or disability.
6. The electronic mail systems and computers shall not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization.
7. The City reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent over the City's electronic communication system for any purpose.
8. The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message. Further, the use of passwords for security does not guarantee confidentiality. All passwords must be disclosed to the department head or they are invalid and cannot be used.
9. Notwithstanding the City's right to retrieve and read any electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any e-mail messages that are not sent to them. Any exception to this policy must receive prior approval by the department head.
10. An employee shall not use a code, access a file, or retrieve stored information unless authorized to do so. Employees shall not attempt to gain access to another employee's messages without the employee's permission.
11. All electronic mail messages, as well as other nonproprietary information in the City computers, may be public record and may be subject to public access upon request.

12. Any employee who discovers a violation of this policy shall promptly notify his/her supervisor.
13. Any employee who violates this policy or uses the electronic mail system or computers for purposes in violation of this policy shall be subject to discipline, up to and including termination.

The City's cell phone policies are:

1. The use of a city cell phone is reserved solely for the conduct of business at the City. They may not be used for personal business.
2. The AT&T service, hardware, and all cell phones are City property. Additionally, all messages composed, sent, or received on all electronic systems are, and remain, the property of the City. They are not the private property of any employee
3. All City cell phones may not be used to create any offensive or disruptive messages. Among those considered offensive are any messages containing sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin, or disability.
4. The City reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent for any purpose.

Any employee who has a city cell phone shall use the equipment in such a manner that follows the above policies. Those employees with city owned smartphones must also abide by the policies under the electronic communication policies. These policies apply to the City camera and all cell phones with camera capability.

SOCIAL MEDIA

The City of Kenmare's (Kenmare Police Department) social media sites are intended to be informative spaces for the public. The City of Kenmare encourages users of its social media sites to respect fellow fans and the posting guidelines of each social media site (Facebook, Twitter, YouTube, etc.) and to understand that the City of Kenmare staff reserves the right to remove postings and ban the individuals posting if posts or content is:

- abusive, defamatory, or obscene;
- fraudulent, deceptive or misleading;
- in violation of any intellectual property right of another
- in violation of any law or regulation, or
- otherwise offensive, graphically or in tone.

EXPENSE REIMBURSEMENT

Reasonable travel, meal, and lodging costs will be paid while attending meetings and conferences on City business. To receive payment, a written expense report must be submitted within [60] days after the expense is incurred. Receipts substantiating the expenses must be submitted with the expense report.

Mileage

Employees required to use their personal vehicle on City business will be paid mileage at the rate currently recommended by the IRS.

Meals

Meals must be incurred during travel status, at least three hours beyond your normal work hours. The City shall reimburse meal expenses for individuals required to attend meetings at the rate set by state law, Under NDCC 44-08-04.

In-state

First quarter (6 a.m. to 12 noon) \$ 7.00

*** First quarter reimbursement may not be made if travel began after 7 a.m.*

Second quarter (12 noon to 6 p.m.) \$ 10.50

Third quarter (6 p.m. to 12 midnight) \$ 17.50

The City shall reimburse meal expenses for individuals required to attend meetings in-state at the rate set by local ordinance under the home rule charter.

Lodging

In and out of state lodging is reimbursed at actual expense accompanied by the receipt for reimbursement.

TRAINING

Training is provided as needed to maintain and improve performance and skills. The employee’s supervisor must approve all training in advance. Time spent participating in approved training opportunities related to the employee’s job is compensable work time.

WORK PERIODS

HOURS OF WORK

The City of Kenmare recognizes a work-week as 12:01a.m Sunday through 12:00a.m. (Midnight) Saturday. The department head will inform employees of their daily schedule of hours of work, including meal periods and rest or coffee breaks, and of any changes deemed necessary by the City.

WORK BREAKS

Breaks from work are provided to relax and refresh the employee. Each employee may take up to two paid work breaks of 15 minutes each, one in the forenoon and one in the afternoon. Breaks may not be accumulated, nor may they be used for coming to work late or leaving early.

LACTATION BREAKS

For up to one year after the child’s birth, any employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her baby. Breaks should be no more than 20 minutes in length.

MEAL PERIODS

Employees are required to take an unpaid lunch break of at least 30 minutes during the workday if an employee works more than five hours. The work schedule will allow for lunch breaks. An employee is not to perform work duties during his/her lunch break, and employees may leave the premises during lunch breaks.

WORKPLACE SAFETY

WORKPLACE THREATS AND VIOLENCE

It is the policy of the City to prohibit acts or threats of violence and threatening behavior by or against its employees during assigned duty times. Violations of this policy by employees of the City will lead to disciplinary action that may include termination of employment.

Violent acts or threats of violence include any activity by an individual that would cause another individual to feel unsafe. Violent behavior may be verbal threats to harm another person or damage property, physical aggression, or harassment, including sexual harassment. Threats of violence include possession or display of a weapon of any type or exhibiting an object in such a manner that it appears to be a weapon.

If an employee is subject to or becomes aware of any violent acts or threats of violence, he/she should immediately report the matter to his/her supervisor or a higher level of authority.

REPORTING ACCIDENTS

An employee involved in an accident or near accident should immediately report the incident to a supervisor or designated staff. If an employee sees an unsafe or hazardous working condition, it is also important to report it immediately.

CORRECTIVE ACTIONS AND DISCIPLINE

Employees are expected to comply with City policies and standards of conduct at all times. Supervisors and department heads are responsible for assuring compliance with policies and procedures.

If corrective action is warranted, the following may occur: Verbal reprimand, written reprimand, suspension of employment with or without pay and dismissal from employment. These actions may be taken in the order listed, although this order is not mandatory and the decision may be made at the discretion of the employee's immediate supervisor. All warnings, verbal or written, should be documented.

VERBAL REPRIMANDS

Verbal reprimands are the least severe disciplinary action and are intended to influence an employee toward improved performance. Verbal reprimands should be documented in the employee's personnel file. An employee who feels aggrieved by this disciplinary action may implement grievance procedures.

WRITTEN REPRIMANDS

Written reprimands are the next most serious type of corrective action. They may be appropriate when a trend toward unacceptable performance is recognized and the use of verbal reprimands has been unsuccessful. A written reprimand may also be appropriate when, in the judgment of a supervisor, an employee's poor performance or job-related behavior warrants more than a verbal reprimand. Written reprimands shall be maintained in the employee's personnel record. An employee who feels aggrieved by disciplinary action under this subsection may implement grievance procedures.

SUSPENSION OF EMPLOYMENT WITH OR WITHOUT PAY

This level of action is normally used when less severe actions have been ineffective. Suspension with or without pay may also be appropriate when, in the judgment of the supervisor, an employee's poor performance or job-related behavior warrants more than a verbal or written reprimand.

Suspension with or without pay may also be used when the supervisor deems it necessary to conduct an investigation in order to make an informed determination concerning an allegation asserted against an employee.

The length of the suspension and whether it shall be with or without pay shall be determined by the employee's supervisor. An employee who feels aggrieved by disciplinary action under this subsection may implement grievance procedures.

DISMISSAL FROM EMPLOYMENT*

This is the most severe disciplinary action. This level of discipline will normally be taken when previous disciplinary actions have been ineffective. However, an employee may be dismissed without using any of the steps listed above. If the supervisor determines it is appropriate to recommend the dismissal of an employee, the employee shall be immediately suspended without pay pending determination of the City governing board on the recommendation for dismissal.

The supervisor shall submit a recommendation in writing to the governing board stating the reasons for recommending dismissal. The employee shall be provided a copy of the supervisor's recommendation.

The governing board shall notify the supervisor and the employee, either in writing or verbally, of the date and time at which the recommendation shall be considered. The employee may submit a written statement to the governing board concerning the recommended dismissal. Both the supervisor and the employee may attend the meeting and may offer any pertinent information to the governing board for consideration. The governing board may also seek and consider any other information it deems appropriate.

If the governing board determines not to dismiss the employee, it may impose other disciplinary measures as it deems appropriate. If the governing board determines to dismiss the employee, the dismissal shall take effect immediately. The decision of the governing board is final and not subject to review under the grievance procedures.

Dismissal of appointive officers shall be governed by [NDCC 40-08-19 under the council form of government.] [NDCC 40-15-07 under the City Council form of government.]

GRIEVANCE PROCEDURES

It is the policy of the City to encourage resolution of disputes in an informal manner whenever possible. If an employee feels an unsatisfactory condition is having an adverse effect on his/her performance or on the office operations, the employee is encouraged to discuss the issue with his/her supervisor. If the dispute involves unlawful acts or other misconduct on the part of the immediate supervisor or department head, the employee shall discuss the issue with the City auditor or The Mayor.

A written complaint may be filed with the employee's immediate supervisor, who will have ten business days after the written complaint is filed to resolve the issue. If the dispute involves unlawful acts or other misconduct on the part of the immediate supervisor or department head, or if the employee's immediate supervisor has not resolved the issue to the employee's satisfaction, the employee shall file the written complaint with the City auditor or The Mayor. The complaint must state the person(s) against whom the complaint is filed, the nature of the complaint, and the effort that has been made to informally resolve the problem. The City auditor or Mayor will attempt to resolve the dispute within ten business days after the written complaint is filed.

If an acceptable solution cannot be reached within ten business days after the written complaint is filed with the City auditor will present a written report to the Mayor and City Council at its next regular

meeting and the governing board will have 40 days from receipt of the written report to resolve the dispute.

An employee may be accompanied, advised, and represented throughout a work-related grievance proceeding by another employee or by a representative chosen by the employee involved in the proceeding (NDCC 34-11.1-04.2). Any expenses of representation are the responsibility of the employee.

If the employee is not satisfied with the remedy or process, he/she may request information from the North Dakota Department of Labor.

TERMINATION OF EMPLOYMENT

Termination of employment includes:

- a. Termination in accordance with the probationary period policy;
- b. Resignation (which includes unauthorized absence for a period of [three] days); and
- c. Dismissal (including being dismissed pursuant to a reduction in force).
- d. Removal of appointive officers pursuant to NDCC 40-08-19 and 40-14-05 (council form of government) or NDCC 40-15-06 and 40-15-07 (commission form of government).

RESIGNATIONS

At-will employees are not required to provide prior notice of resignation but are encouraged to provide at least two weeks' notice to the supervisor prior to the effective date of termination.

REDUCTION IN FORCE

The City may implement a reduction in force whenever it is deemed necessary due to a change in duties, reorganization, or shortage of work or funds. The city governing body shall give employees thirty days written notice of its intent to dismiss the employee pursuant to a reduction in force. In determining which employees shall be selected for termination under a reduction in force, the following criteria shall be used:

1. The acquired knowledge, demonstrated skills and abilities of each employee compared to the work to be done and the available funding;
2. Demonstrated past and present performance levels; and
3. If two or more employees are deemed equally qualified in the above two categories, then length of service with the City shall be a factor. In determining length of service, employees with breaks in service less than one year are credited for their time actually worked. Employees with a break in service greater than one year receive service credit only from their most recent date of hire with the City.

EXIT INTERVIEW

The supervisor shall hold an interview, prior to separation, with every employee separated from employment with the City for the purpose of gathering information that may facilitate control of the employee turnover rate. The employee shall verify the address to which his/her final paycheck is to be forwarded.

PAYMENT OF FINAL WAGES

The unpaid wages or compensation of an employee who voluntarily separates from employment become due at the next regularly scheduled payday and shall be forwarded to an address designated by the employee. The unpaid wages or compensation of any employee terminated by the City become due at the next regular regularly scheduled payday or within 15 calendar days, whichever comes first, and shall be forwarded to an address designated by the employee.