



City of Kimberly

Personnel Policy

This Policy supersedes any personnel policy previously issued by the City of Kimberly

Adopted by City Council

Date: September 10, 2013

CITY OF KIMBERLY PERSONNEL POLICY

THIS PERSONNEL POLICY IS NOT A CONTRACT. NO CONTRACT OF EMPLOYMENT WITH THE **CITY OF KIMBERLY** WILL BE VALID UNLESS IT IS EXPRESSLY APPROVED BY THE CITY COUNCIL AND UNLESS IT IS SIGNED BY AND CONTAINS THE NAME OF THE SPECIFIC EMPLOYEE WHO WOULD BE BENEFITED/OBLIGATED BY THE CONTRACT. NOTWITHSTANDING ANYTHING SAID BY A SUPERVISOR, NO CONTRACT OF CONTINUED EMPLOYMENT SHALL BE IMPLIED. **LEGAL COUNSEL EMPLOYED BY THE CITY OF KIMBERLY SERVES AT THE PLEASURE OF THE CLIENT REPRESENTED, AND SUCH REPRESENTATION MAY BE TERMINATED AT THE PLEASURE OF THE CLIENT.**

CHANGES TO THE POLICIES AND BENEFIT OFFERINGS OUTLINED IN THIS POLICY ARE SUBJECT TO CHANGE AT ANY TIME, WITHOUT PRIOR NOTICE. CHANGES MAY BE MADE IN THE SOLE DISCRETION OF THE CITY COUNCIL.

The relationship between the LEGAL COUNSEL for THE CITY OF KIMBERLY and the City is governed by the Idaho Rules of Professional Conduct. Employed legal counsel serves at the pleasure of the client. Nonetheless, no legal counsel employed by THE CITY OF KIMBERLY shall be dismissed from employment or demoted with an attendant reduction in pay for unlawful discriminatory reasons as noted in Section V of this policy. Legal counsel believing that he/she faces dismissal from employment or demotion with an attendant reduction in pay for unlawful discriminatory reasons or because of allegations requiring the opportunity for a “name-clearing hearing” shall be entitled to an opportunity to be heard as provided for in Section V entitled, “Opportunity to be Heard— Assertions of Unlawful Discrimination and “Name-Clearing Hearing”.

PURPOSE

The purpose of this Policy is to establish a safe, efficient and cooperative working environment, to establish the responsibilities and level of performance expected of all City employees and to explain benefits provided to City employees. **THIS POLICY IS NOT TO BE CONSTRUED AS A CONTRACT OF EMPLOYMENT AND IS NOT INTENDED TO SPECIFY THE DURATION OF EMPLOYMENT OR LIMIT THE REASONS FOR WHICH AN EMPLOYEE MAY BE DISCHARGED. THIS POLICY CREATES NO RIGHTS, CONTRACTUAL OR OTHERWISE, ON BEHALF OF EMPLOYEES OF THE CITY.** The City may, at its sole discretion, alter or amend this Policy or portions thereof at any time without prior notice to or consent by its employees.

NATURE OF EMPLOYMENT

ALL EMPLOYEES OF THE CITY ARE EMPLOYED AT THE DISCRETION OF THE MAYOR AND CITY COUNCIL AND SHALL HAVE NO RIGHT TO CONTINUED EMPLOYMENT OR EMPLOYMENT BENEFITS, EXCEPT AS MAY BE AGREED IN WRITING AND EXPRESSLY APPROVED BY THE CITY COUNCIL. All provisions of this Policy shall be interpreted in a manner consistent with this paragraph and in the event of any irreconcilable inconsistencies; the terms of this paragraph shall prevail. **Except as otherwise provided herein, or as required by law, employees of the City are AT-WILL employees. Only a written contract expressly authorized by the City Council can alter the at-will nature of employment by the City.**

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MISSION STATEMENT

The employees of the City of Kimberly are dedicated to providing excellence in service to our community in a positive and caring manner.

OUR VALUE

We, as employees of the City of Kimberly, value providing superior customer service for those who live, work in and visit our community. This means that we:

place an emphasis on understanding customers needs;

are dedicated to providing timely, courteous and responsive services; and

embrace commitment to customer service as a basic philosophy.

We, as employees of the City of Kimberly, value dealing with our community's concerns in a respectful and courteous manner. This means that we:

value the relationship with our citizens; and

are consistent and cooperative in responding to our citizens' needs and concerns.

We, as employees of the City of Kimberly, value our professionalism and demonstrate this by providing quality service to all who live in, work in and visit our community. This means that we:

deliver knowledgeable and efficient services;

commit to a complete and thorough delivery of services in responding to the needs of the community; and

fully appreciate that tax dollars are to be used to provide cost effective services.

We, as employees of the City of Kimberly, value honesty and integrity. This means that we:

are committed to the highest ethical behavior in our dealings with each other and those we serve. **We, as employees of the City of Kimberly, believe that the public and our colleagues deserve nothing less!**

I. GENERAL POLICIES

A. THE ORGANIZATION IN WHICH YOU WORK

Working for the **City of Kimberly** may be somewhat different from any employer for which you may have worked in the past. The **City of Kimberly** is a political subdivision of the State of Idaho, though it is not a part of state government. The City Council serves as the governing body for the **City of Kimberly** carrying out local legislative duties and fulfilling other obligations as provided by law. The City Council is the general policymaker for the **City of Kimberly** and as such, has primary authority to establish terms and conditions of employment with the **City of Kimberly**. The Mayor may appoint personnel to help carry out administrative responsibilities.

As with all elected public officials, the Mayor and the City Council are ultimately responsible to the voters of the **City of Kimberly**. The terms set forth herein reflect city policy at the time of its printing, but they are subject to change at any time, without prior notice, and at the sole discretion of the City Council.

B. While the City Council has authority to establish general policy for the City of Kimberly's employees, the Mayor has the authority to establish administrative policy. Each employee should recognize that although he/she may serve as an employee supervised by the Mayor or a Department Head, he/she remains an employee of the City of Kimberly not of the official who supervises his/her work. The terms and conditions set forth in this policy, and in the resolutions and policy statements which support it, cannot be superseded by any other official's pledge, without the express action of the City Council. That is particularly true for terms or conditions which would establish a financial obligation for the City of Kimberly now or in the future. You may work for a department with an operational policy that provides additional direction to employees on expectations and procedures unique to that department. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

All selection of the **City of Kimberly** employees and all employment decisions, including classification, transfer, discipline, and discharge, will be made without regard to race, religion, sex, age, national origin, or non-job-related disability. No job or class of jobs will be closed to any individual except where a mental or physical attribute, sex, or age is a bona fide occupational qualification. All objections to application of the **City of Kimberly** policy in this regard shall be brought to the attention of the office of the Mayor or City Administrator, or in the case of objection to actions undertaken by that person, to legal counsel for the City.

C. VETERAN'S PREFERENCE

City of Kimberly will accord a preference to employment of veterans of the U.S. Armed Services in accord with provisions of Idaho Code Title 65, Chapter 5 or its successor. In the event of equal qualifications for an available position, a veteran or family member who qualifies for preference pursuant to Idaho Code § 65-503, or its successor will be employed. Under certain circumstances, the widow, widower, or spouse of a veteran may also be entitled to veteran's preference pursuant to Idaho Code § 65-503.

D. CONFLICT OF INTEREST/NEPOTISM

No person shall be employed by **City of Kimberly** when said employment would result in a violation of provisions found in Idaho Code, including but not limited to I.C. § 59-701 et seq., I.C. §18-1359 and their successors. Any such appointment made in violation of these sections may be void. The appointment or employment of the following persons is prohibited:

1. No person related to the Mayor or City Council member by blood or marriage within the second degree shall be appointed to any office, position, employment or duty; and
2. No public servant, including elected officials and employees, shall appoint or vote for the appointment of any person related to him/her by blood or marriage within the second degree to any office, position, employment or duty.

An employee whose relative is subsequently elected may be eligible to retain his/her position and pay increases as allowed in Idaho Code §18-1359(5).

E. PREFERENCE FOR HIRING FROM WITHIN

Qualified individuals who are already employees of the **City of Kimberly** may be given preference over outside applicants to fill vacancies in the work force. Employees may be selected for transfer to positions without following the notice and selection procedures normally required for hiring of.

F. PERSONNEL POLICY SUBJECT TO CHANGE WITHOUT PRIOR NOTICE

The rules contained in this Personnel Policy are subject to change, without prior notice, at any time in the sole discretion of the City Council.

II. EMPLOYMENT START-UP

A. EMPLOYMENT FORMS TO BE COMPLETED

The following pre-employment forms must be completed before the employee may begin work for the **City of Kimberly**:

1. Employment application form.
2. Insurance forms.
3. Immigration form (I-9).
4. Insurance information about dependents (if such coverage is available).
5. Any other benefit forms necessary for employee information.
6. New employee forms and verification of receipt of personnel policy.

B. PAYROLL REPORTING SYSTEMS

Reports of hours worked and time on and off the job must be completed in a timely manner in accord with procedures established by the Human Resource Specialist/City Clerk. Each report of employee time should be signed by both the supervisor and by the employee and should contain a certification that it is a true and correct record of the employee's time and benefit usage for the time period covered. Any employee with concerns about his/her compensation, rate of pay, payroll status, deductions, etc. shall communicate such concerns to the Human Resource Specialist/City Clerk as soon as any

such concern becomes evident. If the response from the Human Resource Specialist/City Clerk is unsatisfactory, the employee should address the issue to his/her immediate supervisor in order to resolve stated concerns. A written record of such issues should be maintained in the employee's personnel file.

C. DISTRIBUTION OF POLICY

At the time of employment, each employee should receive a copy of this personnel policy or have access to an electronic copy of this personnel policy. It is the responsibility of the employee to familiarize him/herself with the contents of the personnel policy and to acknowledge its receipt in writing. Periodic updates or changes should be distributed either electronically or by paper copy and acknowledged by the employee.

D. EMPLOYEE PERSONNEL FILES

1. Personnel Records

The official employee records for the **City of Kimberly** will be kept in the office of the City Clerk. Within these personnel files will be kept all records of employee performance evaluation, employee status, and other relevant materials related to the employee's service with the **City of Kimberly**. The employee's supervisor, the Mayor, or the employee him/she may contribute materials to the personnel files deemed relevant to the employee's performance and tenure. Each employee shall have the right to review all materials placed in his/her personnel file at any reasonable time. Copies of materials in an employee's personnel file are available to that employee without charge. Personnel files shall not be removed from the premises except as necessary for city purposes.

2. Access to Personnel Files

It is the policy of the **City of Kimberly** to allow only limited access to an employee's personnel file. Those authorized to evaluate materials in a personnel file include the Mayor, the employee's Department Heads, the City Council when acting as a body in the course of its official business, attorneys for the City, and the employee him/herself. Based upon the general confidentiality of personnel files, access of others to such files shall be allowed only with authorization of the City Administrator and Mayor after consultation with the City Attorney. Information regarding personnel matters will only be provided to outside parties with a release from the employee, or when deemed necessary by legal counsel for the City or pursuant to Court Order, or pursuant to a proper subpoena. The City reserves the right to disclose the contents of personnel files to outside state or federal agencies, to its insurance carrier or its agents for risk management purposes or when necessary to defend itself against allegations of unlawful conduct.

3. Management of Information in Personnel Files

Each employee shall be provided an opportunity to contest the contents of his/her personnel file at any time. This is to be done by filing a written objection and explanation which will be included in the file along with the objectionable material. In the sole judgment of the City Administrator and the Mayor, after consultation with legal counsel for the City, any offending material may be removed upon a showing by the employee that it is false or unfairly misleading. In general, there should be a presumption that materials are to remain in personnel files accompanied by the employee's written objection and explanation to provide a complete employment history.

III. RULES OF EMPLOYEE CONDUCT

Violation of any of the rules set forth below shall be grounds for disciplinary action including possible dismissal from employment. However, this list is not all inclusive and other acts of misconduct not specifically set out below may be grounds for disciplinary action as well. Among these rules, the most important is the rule addressing attitude and cooperative behavior.

A. PERSONAL PERFORMANCE AND BEHAVIOR

Each employee of the **City of Kimberly** is expected to conduct him or herself in a manner that is helpful and productive and which does not reflect adversely upon the **City of Kimberly**. Each employee must recognize that public employees are subject to additional public scrutiny in their public and personal lives because the public's business requires the utmost integrity and care. In order to accomplish the goals of the **City of Kimberly** as a public institution, each employee is expected to scrupulously avoid personal behaviors which would bring unfavorable public impressions upon the **City of Kimberly** and its officials. In order to accomplish this, each employee must comply with the following expectations:

1. **WORK COOPERATIVELY AND CONSTRUCTIVELY WITH FELLOW WORKERS AND MEMBERS OF THE PUBLIC TO PROVIDE PUBLIC SERVICE OF THE HIGHEST QUALITY AND QUANTITY. This is the first priority for all employees.**
2. Shall be prompt and regular in attendance at work or other required employer functions.
3. Shall comply with dress standards established in the department for which the employee works. Dress standards shall be set by the City Administrator, but in the absence of any departmental dress standards, clothing shall be appropriate for the functions performed and shall present a suitable appearance to the public.
4. Shall dedicate primary efforts to the **City of Kimberly** employment with secondary employment subject to approval by the Mayor or City Administrator. Each employee must notify the Mayor or City Administrator of any other employment, self-employment or other business interests. Secondary employment should not conflict with duties performed for the City in any meaningful way. Individual department rules may spell out permissible examples of "moonlighting" wherein employees may hold additional positions.
5. Shall avoid conflicts of interests in appointments and working relationships with other employees, contractors, and potential contractors in City of Kimberly and related agencies. No employee shall engage in conduct which violates the laws of the State of Idaho, including but not limited to I.C. §18-1356 (accepting gifts that exceed a value

of \$50), I.C. §59-701 et seq. (Ethics in Government Act), I.C. §59-201 (Prohibitions against Contracts) and I.C. §18-1359 (Using Public Position for Personal Gain).

6. Shall not accept gifts or gratuities in any personal or professional capacity which could create the impression that the giver was seeking favor from the employee or official in violation of I.C. § 18-1356 and I.C. § 18-1357.
7. Shall not serve on any board or commission which regulates or otherwise affects the official duties or personal interests of said official or employee in a way that could create disadvantage for other members of the public or advantage for the employee.
8. Shall not release any public record without the express authority of the public official responsible for custody of the record or without an order from a court or public agency of competent jurisdiction.
9. Shall not release any personnel record without the concurrence of the public official responsible for custody of the record and after consulting with legal counsel for the City or without an order from a court or public agency of competent jurisdiction.
10. Shall not engage in conduct away from work which, although not criminal, may reflect adversely upon the **City of Kimberly** or its officials or otherwise impair the employee's ability to perform.
11. Shall not use any substances, lawful or unlawful, which will impair the employee's ability to function as a valued and competent part of the **City of Kimberly** work force. Should the employee be prescribed a lawful substance that may impair the employee's ability to safely do his or her job, the employee is required to provide a physician's note explaining the possible effects of the medication upon the employee's ability to do his or her job and the length of the time that the employee will be required to take the medication. The employee may be required to take sick leave while taking the medication.
12. Shall not engage in conduct while operating a motor vehicle which impairs the ability of the employee to perform job functions even though the driving conduct does not occur during hours of employment.

13. Shall not engage in workplace or public conduct otherwise detrimental to the accomplishment of the goals established by the City Council, the Mayor or the department for whom he/she works.

B. WORKPLACE CONDUCT

Each employee will be expected to conduct him/herself in the workplace in accordance with the following rules. THESE RULES ARE NOT ALL-INCLUSIVE OF CONDUCT EXPECTED OF the **City of Kimberly** EMPLOYEES. Each employee of the **City of Kimberly** shall:

1. Give his/her best efforts to accomplish the work of the **City of Kimberly** for public benefit in accordance with policies and procedures adopted by the Mayor and City Council displaying an attitude of cooperation and constructive participation.
2. Be subject to the administrative authority of those who supervise the department where the employee works even though the officials may not have been involved in the hiring of the employee.
3. Adhere to any code of ethics in his/her profession and avoid conflicts of interest or using his/her public position for personal gain.
4. Follow all rules for care and use of public property to assure that the public investment in such property is protected and that the safety of the public and other workers is maintained.
5. Abide by all departmental rules whether they be written or issued orally by the Department Head. No employee shall be required to follow the directive of a supervisor which violates laws of any local jurisdiction, the state, or nation.
6. Abide by pertinent state and federal statutes, and the **City of Kimberly** rules concerning the dissemination of information to the public from public records or about

public matters. The decision to release information from the public records or to disclose writings or other information in the hands of a public official belongs with the responsible official who has official custody of that record. Each employee shall maintain the confidential nature of records which are not open to public scrutiny in accordance with the direction of the responsible official.

7. Adhere to defined work schedules and follow procedures for requesting exceptions from normal work schedules. Each employee shall follow the rules regarding the reporting of work hours and obtaining the supervisor's approval for time-keeping records. Failure to follow such rules may be grounds for delayed payment of wages, salaries, or reimbursements or for imposition of appropriate disciplinary penalties.
8. Follow rules regarding breaks and lunch periods, including provisions granting supervisors authority to adjust them. Timing of breaks or lunch periods may be changed to accommodate the completion of necessary work.
9. Reporting all accidents that occur or are observed on the job. Each employee shall cooperate in the reporting and reconstruction of any job-related accident in order that workplace hazards can be eliminated and that proper consideration can be accorded to injured workers and the public.
10. Report any accidents observed to have happened on city property or involving city property. Each employee shall provide as much information as he/she can from the observations made in the course of activities associated with one's work. Such information should be reported to the employee's immediate supervisor as soon as physically possible and reasonable efforts should be made to assist those in need.
11. Follow all rules regarding safety in the workplace whether established formally by the department or by outside agencies. Employees are encouraged to suggest ways to make the workplace or work procedures safer.
12. Maintain a current driver's license when necessary in the conduct of work for the **City of Kimberly**. Each employee must report any state-imposed driving restrictions to

his/her immediate Department Head. Each employee is also obligated to notify his/her supervisor in the event that his/her driving abilities are impaired.

13. Perform such obligations as are necessary to carry out the work of the **City of Kimberly** in an efficient and effective manner at minimal costs and with limited risk to the public and fellow workers.

C. PROHIBITED WORKPLACE CONDUCT

Employees of the City of Kimberly shall not:

1. Be present in the workplace under the influence of drugs, alcohol, illegal substances or other legal substances which would impair the ability of the employee to perform his/her work competently or which would threaten the safety or well-being of other workers or the public. Violation of this policy is grounds for immediate termination.
2. Engage in abusive conduct to fellow employees or to the public, or use abusive language in the presence of fellow employees or the public. Abusive language shall include profanity and loud or harassing speech.
3. Sleep or be absent from the employee's work location when on duty. Employees shall be attentive to their work at all times.
4. Engage in malicious gossip and/or spread rumors, engage in behavior designed to create discord and lack of harmony, or willfully interfere with another employee's work output or encourage others to do the same.
5. Use work time for personal business, including the selling of goods or services to the general public. Employees should minimize the amount of work time spent on similar activities engaged in with fellow employees.

6. Use work time or public premises to promote religious beliefs to members of the public or fellow employees.
7. Engage in political activities while on duty in public service. This rule shall not apply to elected officials.
8. Provide false or misleading information on employment applications, job performance reports, or any other related personnel documents or papers.
9. Destroy, alter, falsify or steal the whole or any part of a police report or any record kept as part of the official governmental records of the City (I.C. §§ 18-3201 and 18-3202).
10. Discriminate in the treatment of co-workers or members of the public on the basis of race, religion, gender, age, disability or national origin.
11. Smoke, or use smokeless tobacco except in designated outdoor smoking areas if so provided. No smoking or smokeless tobacco use is allowed in any public building or city vehicles.
12. Abuse employee benefit offerings by taking unjustified sick leave, unearned vacation, or otherwise participate in a scheme or deception designed to create incorrect personnel records or to claim benefits which are not deserved in accordance with the **City of Kimberly** policy.
13. Violate rules concerning absence from the workplace without proper authorization. Employees must obtain prior permission as required by the **City of Kimberly** policy for use of vacation, sick, bereavement, or other types of leave granted by this personnel policy.

14. Engage in prolonged visits with co-workers, children, friends, or family members who interfere with the course of work in the office or department in which the employee serves.
15. Use phones or computers in the workplace in a manner that violates policy or which disrupts workplace activities. This to include visiting prohibited sites of sexual nature. Violation of this policy may constitute grounds for immediate termination.
16. Engage in criminal conduct of any kind while on duty or off. **The City of Kimberly** employees are expected to behave in a lawful and socially acceptable manner and failure to do so is a violation of the trust placed in such employees by the public and the appointing official.
17. Violate any lawful rule established by the Mayor to maintain order and productivity in the workplace.
18. Unlawfully harass a fellow worker or member of the public at any time while in the **City of Kimberly** active service, as outlined in the City's Unlawful Harassment Policy.

D. RELATIONSHIP POLICY

1. No employee of the **City of Kimberly** shall hire, supervise or otherwise exercise discretion concerning a paid employee who is a spouse.
2. No employee of the **City of Kimberly** shall supervise or otherwise exercise discretion concerning a paid employee who is related to the supervisor within the first degree of affinity or consanguinity.
3. No employee of the **City of Kimberly** shall hire a paid employee who is related to the supervisor within the second degree of affinity or consanguinity pursuant to state law (I.C. § 18-1359 or its successor).

4. Any supervisor involved in a romantic relationship with a subordinate must immediately notify his/her superior of the existence of any such relationship. Efforts should be made to eliminate supervisory responsibility for one who is romantically involved with a subordinate.

CANDIDACY FOR ELECTIVE OFFICE

While the **City of Kimberly** recognizes that the First Amendment provides Constitutional protections for the political activity of its employees, it also recognizes that this right is not absolute when balancing the right of the individual to become a candidate for office and the City's interests in promoting the efficiency of the public services it performs through its employees. (*Pickering v. Board of Education*, 391 U.S. 563, 88 S.Ct. 1731 (1968).

If an employee initiates candidacy against an incumbent elected official for whom he/she is a subordinate and there is a **reasonable prediction of disruption** in that Official's office, the employee must immediately resign or face possible termination.

A "**reasonable prediction of disruption**" is based upon any of the following factors:

1. The size of the office in which the employee works--the smaller the office, the greater prediction of disruption;
2. Whether the employee candidate holds a position of trust and confidence to the incumbent--the closer the ties, the greater likelihood of disruption;
3. Whether the employee candidate is running for a position in which he/she would replace or become superior to his/her current supervisor--in such circumstances the threat of disruption would loom larger; or

4. The nature of the relationship between the employee candidate and the incumbent and the degree of contact they have with one another--the greater the amount of contact and interaction, the greater the possibility of disruption.

Not all of the above factors must be met in order to seek resignation or termination of the employee.

If the Official determines that there exists a “reasonable prediction of disruption” should the employee remain employed with the **City of Kimberly** and the employee refuses to resign, he/she may be terminated. The Official should set out, in writing, the factual basis, for finding that there exists a “reasonable prediction of disruption” using the above factors. Said written findings should be provided to the employee, placed in the employee’s personnel file and be made a part of the official record. All other applicable opportunities to be heard procedures, as set out in this policy, shall apply.

IV. EMPLOYEE CLASSIFICATION, COMPENSATION, AND BENEFITS

For varied reasons, employee status must be organized by class or category in order to administer employee policies, benefits or otherwise address employment issues. It is generally the responsibility of the employee to assure that he/she is properly categorized for purposes of each issue or benefit type. The City will endeavor to assist with such matters, but the employee shall be ultimately responsible to assure that his/her service is properly addressed.

With the exception of Elected Officials, any employee, regardless of designation, may utilize the opportunity to be heard with regard to allegations of unlawful discrimination and “name-clearing hearing” procedures set out in Section V of this policy should he/she believe that an employment action taken against him/her was the result of unlawful discrimination or involves an allegation entitling him/her to a name-clearing hearing.

A. CLASSIFYING EMPLOYEES FOR POLICY PURPOSES

1. Employment Status

- a. Except as otherwise provided by this Policy, or as required by law, or pursuant to a written contract approved by the City Council, employees of the City are AT-WILL EMPLOYEES.

- b. Changes in employment status that are the result of budgetary needs, reductions in force, reorganization of work duties through transfer or reassignment, or general changes in the terms or conditions of employment or of benefit offerings may be made at the sole discretion of the City. Therefore, the City of Kimberly retains full authority, without prior notice, to modify the general terms and conditions of employment. Should an employee believe that any such decision is the result of unlawful discrimination, he/she may utilize the opportunity to be heard procedures set out in Section V of this policy.

- c. Appointed Officials. The City Clerk, City Administrator/Treasurer, Public Works Director, Chief of Police, and any other officials appointed pursuant to Idaho Code § 50-204 may only be removed pursuant to Idaho Code § 50-206. However, any employed appointed official who believes that he/she has been removed from his/her position as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the procedures set out in Section V of this policy.

- d. Temporary or Seasonal Employees. Employees who work on an irregular or temporary basis are considered to be Temporary or Seasonal Employees. Any Temporary or Seasonal Employee who believes that he/she has been terminated from his/her position or demoted with an attendant change in pay as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the hearing procedures set out in Section V of this policy.

- e. Rights of person absent from employment for service in a uniformed service. Any person who has been restored to his/her position following service in a uniformed service in accordance with Idaho Code Section 65-508 and the Uniformed Services Employment and Reemployment Act of 1994, 38 U.S.C. Section 4301, et seq., as amended (USERRA) shall be considered as having been on leave of absence while performing such service and shall be restored to his/her position without loss of seniority, status or pay. Any such person shall not be discharged from such position without cause for 1) a period of one (1) year after the date of such restoration, if the person's period of service before the reemployment was more than 180 days or 2) a period of 180 days after such restoration, if the person's period of service before the reemployment was more than 30 days but less than 181 days. During the applicable period, any such reemployed person shall be entitled to an opportunity to be heard prior to termination.

2. **Employee Classification for Benefit Purposes**

The classification of the position you hold with the City of Kimberly may affect the status of obligations or benefits associated with your employment. The primary classes of employees and their respective status is outlined as follows:

a. Elected Officials

Elected officials are not considered regular employees. Elected officials receive employment benefits by action of the City Council.

b. Full-Time Regular Employees

Employees who are not temporary or seasonal and whose typical work week consists of at least 40 hours or more are considered Full-time Regular Employees. Full-time Regular Employees shall receive all employee benefits provided by the **City of Kimberly** as such benefits now exist or may be subsequently changed by action of the City Council.

c. Part-Time Regular Employees

Employees who are not temporary or seasonal and whose typical work week consists of less than 40 hours on a regular basis are considered Part-time Regular Employees. Part-time Regular Employees shall receive reduced employee benefits in accordance with specific policies adopted by the City Council. The number of hours scheduled may also affect the employee's obligation to participate in certain mandatory state benefit programs. Certain benefits may not be available because qualifying thresholds have not been reached.

d. Temporary or Seasonal Employees

Employees who work on an irregular, seasonal or temporary basis, even though they work more than 20 hours per week are classified as Temporary or Seasonal Employees. Temporary or Seasonal Employees will receive no benefits provided to regular employees, except those required by law or those approved by official action of the City Council.

Any Temporary or Seasonal Employee who believes that he/she has been terminated from his/her position or demoted with an attendant change in pay as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the hearing procedures set out in Section V of this policy.

e. Independent Contractors

Independent contractors who provide services to the City on a contractual basis are not considered employees of the City. As such, this Policy does not apply to independent contractors.

B. COMPENSATION POLICIES

1. Establishment of Employee Compensation

The City of Kimberly compensates employees in accord with decisions by the Mayor and City Council as budgets are set and tax levies are authorized. Pay for any given

position is subject to the annual budgetary process and as such may be subject to increase, reduction, or status quo maintenance for any time period. The Mayor or City Administrator may make suggestions about salary compensation and other pay system concerns, but the final decision regarding compensation policy rests with the City Council. The City Council reserves the right to make budget adjustments, and consequently pay adjustments, during the course of the budget year in order to manage cash flow or to deal with other circumstances which justify or require change in city expenditures.

2. Compliance with State and Federal Pay Acts

The City of Kimberly shall comply with all State and Federal Pay Acts respecting the compensation of employees for services performed in the public service.

3. Additional Compensation Policies

Elected Officials shall be paid a set salary as established by the City Council in the annual budget with an adopted ordinance. They shall have no right to overtime pay, compensatory time off, sick leave or vacation leave. Employees determined to be exempt from the hourly requirements of the Fair Labor Standards Act shall be paid on a salary basis as established by the City Council.

4. Right to Change Compensation and Benefits

The City of Kimberly reserves the right to change general compensation for any reason deemed appropriate by the City Council. Compensation may also be adjusted based upon job performance and the availability of funds to maintain a solvent city budget. Hours worked may be reduced or employees may be laid off as necessary to meet budgetary constraints or as work load changes.

5. Overtime Compensation - Compliance with Fair Labor Standards Act

In addition to the employee classifications set forth elsewhere in this policy, all employees are classified as Exempt (salaried) or Nonexempt (hourly) for purposes of complying with the Federal Fair Labor Standards Act (FLSA). The FLSA is the federal wage and hour law which governs the obligation of employers to pay overtime

compensation. Certain employees are exempt from operation of this law because they perform work that qualifies for the professional, executive or administrative exemption. As such, exempt employees are not required to receive overtime pay for hours worked beyond the limits provided by the statute. Employees who serve as sworn law enforcement officers or as firefighters may be subject to special exceptions found in the FLSA (see 29 U.S.C. § 207(k)). Please contact your department supervisor or the office of the Human Resource Specialist/City Clerk for further clarification of your FLSA status.

- a. Occasionally the business needs of the City may make it necessary to require overtime. When this occurs, supervisors will make every effort to accommodate employee's schedules.
- b. Non-exempt (hourly) employees (as defined by the Fair Labor Standards Act) receive overtime pay of on and on-half times their regular rate of pay for all hours worked in excess of forty (40) hours in a work week.

6. **Compensatory Time Policy**

It is the policy of the **City of Kimberly** that overtime will be paid in accordance of the Fair Labor and Standards Act rules. Departments wishing to use compensatory time in lieu of overtime compensation must get express permission from the Mayor.

7. **Reporting and Verifying Time Records**

It is the responsibility of each Non-exempt (hourly) employee to properly record time that he or she has worked. Each time sheet shall bear the signature of the employee with a statement verifying its accuracy and a counter signature by a supervisor indicating that the hours claimed were actually worked. These records shall be retained as required by the records retention policy of the City, consistent with state law. Exempt employees are required to document benefit usage and may be required to document time worked for accountability and benefit purposes.

8. **Work Periods**

Employment with the City of Kimberly is subject to the Federal Fair Labor Standards Act as previously described. Each employee is responsible for monitoring the status of

hours worked in each work period. Overtime will be allowed only when authorized by an appropriate supervisor or when absolutely necessary in an emergency. The work week for all regular employees who are subject to the FLSA will begin at 8:00 a.m. on Saturday of each week and concludes at 7:59 a.m. of the succeeding Saturday. For Non-exempt(hourly) employees,(excluding qualifying law enforcement officers) time actually worked in excess of forty hours in a work week will be computed at one and one-half (1 ½) times the hours worked.

Sworn law enforcement officers may be subject to the special exception for their respective professions under 29 U.S.C. § 207(k) which allows establishment of their work period up to twenty-eight (28) days. Overtime compensation at one and one-half (1 ½) times the hours worked is to be paid for qualifying law enforcement officers' hours beyond those established by the 29 U.S.C. § 207(k) schedule.

9. Promotions and Compensation

The compensation policy for all employees is established by action of the City Council. The annual budget of the **City of Kimberly** sets the funding available for compensation for positions in various departments. Promotions and changes in status may be recommended by officials in each of the operating departments, but final authority regarding compensation rests with the City Council.

It is the policy of the City of Kimberly to perform evaluations to establish compensation increases. The performance evaluation will be used as a guide for the overall compensation adjustment. The Department Head, City Administrator, and the Mayor will evaluate input in regards to employee compensation. Evaluation will occur during the annual budget review.

10. Payroll Procedures and Paydays

Employees are paid once a month throughout the year. Paychecks are issued by the office of the Human Resource Specialist/City Clerk on the last working day of the month. Paychecks compensate employees for work performed in the month in which the check is issued.

It is the obligation of each employee to monitor the accuracy of each paycheck received. Information shown on the employee's paycheck stub is provided for information only. The paycheck is generated by a computer program that does not have the capacity to think or to understand individual circumstances. Actual practices

respecting the issuance of paychecks and allocation of employee benefits must be consistent with the official policy of the City. In the event of disagreement between the computer-generated paycheck stub and official policy as interpreted by the Department Head with the assistance of the City Administrator, the policy shall prevail. Employees are obligated to call to the City's attention any discrepancies in payroll practices, whether to the advantage or disadvantage of the employee.

11. Compensation while Serving on Jury Duty or as a Witness in a Court

Proceeding

Leave will be granted to employees called to serve on jury duty. Full pay will be provided during the first three days of such service. After the first three days the employee may elect to use accrued vacation time or unpaid leave of absence. Employees will be paid normal duty hours and must indicate time spent in jury duty on their time sheets.

Employees must immediately notify their Supervisor when they received jury duty summons. Employees chosen to sit on jury must notify their Supervisor as to how long the trial is expected to last, and notify their Supervisor when they are expected back to work.

Leave will be granted and full pay provided to employees called to serve as a court witness in matters specifically related to city operations.

12. Military Leave

Unpaid leave of absence will be granted to participate in ordered and authorized field training. The city's employment policy will comply with the provisions of Idaho Code § 46-407, et seq., or its successor, as those Code provisions govern leaves of absence for military service and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA).

13. Reduction in Force

Employee assignments may be affected by reductions in force made due to economic conditions or to changes in staffing and workload. The Mayor, City Administrator, City

Council, and Department Head reserves the right to make any changes in work force or assignment of resources deemed to be in the organization's best interests. The City Council may also specify at the time reductions in force are made what reinstatement preferences may accompany the reductions. Said reinstatement preferences may be tied to the classification of the employee or to specialized skills possessed by the employee. Any employee who believes that he/she has been terminated or reassigned from his/her position as a result of unlawful discrimination may utilize the hearing procedures set out in Section V. of this policy.

14. Payroll Deductions

In accord with Idaho Code § 45-609 or its successor, no payroll deductions will be made from an employee's paycheck unless authorized in writing by the employee or as required by law.

15. Travel Expense Reimbursement

An employee on approved City business shall be reimbursed for expenses incurred in completing his/her work-related assignment in accord with the policies established by the City Council.

Employees should complete and have their supervisor approve a travel request form prior to travel. Each employee is responsible for providing verified receipts for any expenses for which reimbursement is requested.

Mileage: Mileage may be reimbursed at the State Rate, while traveling on work assignments. If a City vehicle is available for use it will be used due to being considered the most reliable mode of transportation, if refused mileage will not be paid for use of personal vehicle.

Elected officials may choose straight gas cost rather than mileage for personal vehicle use to conduct City business rather than being reimbursed at the mileage rate to save the City money.

- b. **Motels/Hotels:** All employees are instructed to ask for commercial or government rates when traveling on official City business, and to notify the hotel/motel of the City's tax exemption. Unless the hotel directly bills the City or the room is charged, at the discretion of the elected official, to a City credit card, employees will be reimbursed the actual cost at the

single room rate. Hotel receipts must be submitted with the travel voucher, with the single room rate indicated on the receipt.

- c. **Meal Expenses:** When traveling, employees will be granted the Federal Per Diem limit for meal expenses unless meals are provided via conference or training program.

16. On-the-Job Injuries

All on-the-job injuries shall be reported to the employee's Department Head as soon as practicable to allow filing of a worker's compensation claim in the proper manner. If an employee is disabled temporarily by an on-the-job accident he/she should be eligible for worker's compensation benefits. Return to employment will be authorized on a case-by-case basis upon consultation with the City Administrator and the State Insurance Fund. Concerns associated with injured worker status may be brought before the appropriate elected official for review.

For sworn law enforcement officers, the City should handle worker's compensation claims pursuant to Idaho Code, Title 72, Chapter 11.

C. EMPLOYEE BENEFITS

The City of Kimberly offers a number of employee benefits for Full-Time Regular Employees and Part-Time Employees. These benefit offerings are subject to change or termination in the sole discretion of the City Council. Each benefit offering is subject to the specific terms of its respective insurance policy and/or official resolution of the City Council.

1. Vacation Leave

Vacation leave is available to full-time regular employees who have completed 3 months of full-time employment. Vacation accrues from the start of employment in the following manner:

<u>Length of Service</u>	<u>Vacation Accrual</u>
0 through 5 years	8 hrs / month
5 through 10 years	10 hrs / month
10 through 15 years	12 hrs / month
Over 15 years	14 hrs / month
*End of/Beginning of	

Vacation leave can only accrue to an absolute 200 hour maximum. Any excess, over the maximum accrual, not used during the fiscal year in which it accrues will be forfeited, without right of compensation, at the conclusion of the fiscal year in which it became excess.

Vacation leave is to be scheduled with consent of the responsible Department Head. Proper vacation leave forms need to be submitted to responsible department supervisor prior to requested leave time. Efforts will be made to accommodate the preference of the employee in vacation scheduling, but first priority will be the orderly functioning of affected departments.

If a paid holiday falls within an employee's vacation period, time for the holiday will not be charged to the employee's vacation credit.

Vacation leave may not be used until it is earned or in any amount greater than the number of vacation leave hours accrued. Vacation leave shall not accrue to any employee on leave without pay, suspension without pay, or layoff.

Upon separation from employment unused vacation leave up to the maximum allowable accrual will be compensated by lump-sum payment at the then-current hourly or daily rate.

2. Sick Leave

Sick leave benefits are provided to Regular Full-Time employees at the rate of eight (8) hours per every month of employment. Sick leave is a benefit to provide relief to the employee in the event of illness to the employee or his/her immediate family. It is to be used only in the event of an illness or injury that prevents the employee from working productively or safely or if an immediate family illness presents no practical alternative for necessary care. Sick leave must be requested at least within two hours of the time

when the scheduled work period is to begin, unless circumstances outside the control of the employee prevent such notice. Department Heads asked to approve use of sick leave may, at the **City of Kimberly** expense, request an independent review of reported illness at any time by a competent medical authority.

Sick leave can accrue to a maximum of 240 hours. Sick leave benefit recipients will receive their normal compensation when using sick leave. Sick leave shall not accrue to any employee on leave without pay, suspension without pay, or layoff. All unused sick leave will be forfeited without compensation upon separation from employment.

Sick leave shall be defined as the absence from work of an employee due to personal illness or the serious illness or death of an immediate family member requiring the employee's attention. For purposes of this section immediate family shall be defined as spouse, children, and parents of the employee.

When an employee finds it necessary to use sick leave, the employee shall report to the Department Head in accordance with department policy. Upon return to work the employee shall complete and submit to his/her Department Head the proper paper work. The use of sick leave shall not be authorized until the form is reviewed and approved by the department supervisor. Medical certification from an employee's (or family member's) physician indicating that the employee is unable to work because of the employee's or family member's illness is required for any absences in excess of 3 working days and may be requested by a Department Head any time sick leave is used.

As a matter of policy, the sick leave privilege shall be considered a privilege rather than a right of employment. Sick leave may be used as allowed in this policy, but for other purpose. Any abuse of the sick leave privilege shall result in strict disciplinary action and potential termination.

3. Holidays

The City observes eleven holidays as outlined on the below holiday schedule. Full-time Regular Employees and Temporary or Seasonal Employees who are scheduled to work at least 40 hours a week who work on the date of any holiday shall receive eight hours compensation at their regular hourly rate for that day even though they do not work. Holidays which fall on Saturdays shall be observed on the preceding Friday. Those which fall on Sunday shall be observed on the succeeding Monday. The holiday schedule may be changed at any time by the City Council.

Full-time Regular Employees and Temporary or Seasonal Employees who are scheduled to work at 40 hours a week, including police officers, who work on a holiday

shall be compensated at a rate of one and half (1 ½) time the employee's regular rate of pay for the hours worked. Full-time Regular Employees and Temporary or Seasonal Employees who are scheduled to work at least 40 hours a week who are on call on a holiday shall receive eight hours of compensation at a rate of one and half (1 ½) times the employee's regular rate of pay.

Recognized Holidays:

New Year's Day	Labor Day
Martin Luther King, Jr./Human Rights Day	Columbus Day
Presidents' Day	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Friday after Thanksgiving
Christmas Day	

4. On-Call

Public works personnel are required to perform phone carry time (waiting to engage), with a maximum 4 hour response time and will receive 4 hours of leave time credit (or PC-phone carry) and a minimum of 1 hour for all approved call outs. On-call duty time is from Saturday at 7:59 am to the following Saturday morning at 8:00 a.m. The 4 hours given for on-call must be used (PCU – phone carry used), during the week following the employee's on-call status, or it will be lost, unless pre-approved by the department supervisor. The employee may choose which day of the following week will be taken; as long as circumstances do not arise that require a need for the employee to be at work on the day requested. In case the need should arise, the supervisor may substitute another day, as he or she deems necessary.

5. Bereavement Leave

Up to three days of paid leave for absence to Full-time Regular Employees for a death in the immediate family (spouse, parents, grandparents, children, grandchildren, brothers, and sisters). Additional leave may be granted from accrued vacation leave or unpaid leave of absence.

6. Leaves of Absence

Up to thirty (30) days unpaid leave can be granted by the Mayor for any justifiable purpose. Paid leave in any amount or unpaid leave in excess of thirty days shall require written approval of the City Council.

7. Life Flight Membership

The City of Kimberly will provide Life Flight Membership through St. Luke's Hospital to all employees and their family at no additional cost to the employee.

8. Family Medical Leave Act (FMLA)

Employer Coverage

FMLA applies to all:

- a. public agencies, including State, local and Federal employers (§ 825.108), and local education agencies (schools); and,
- b. Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year - including joint employers and successors of covered employers.

A. Eligibility Requirements.

To be eligible for FMLA benefits, prior to any leave request, the employee:

- i) must have worked for the employer for at least 12 months;
- ii) must have worked at least 1,250 hours for the employer during the previous 12 months; and
- iii) your employer must employ at least 50 employees at the worksite or within 75 miles.

Since the City of Kimberly does not employ at least 50 employees at the worksite or within 75 miles, the Family Medical Leave Act (FMLA) DOES NOT apply to you, and you are not entitled to 12 weeks of job-protected, unpaid leave.

9. Maternity/Paternity Leave

The City allows Regular Full-time Employees to take twelve weeks of unpaid maternity and paternity leave after the birth of a baby or adoption of a child. Such leave must be taken consecutively. Employees may use any accrued paid vacation and sick leave during this time. Employees are required to schedule leave for the birth of a child as soon as possible with his or her supervisor.

10. Change in Benefits

The City of Kimberly through its City Council, reserves the right to change, condition, or terminate any benefits set forth in this section. No employee shall acquire any rights in any current or future status of benefits except as the law otherwise requires.

11. Worker's Compensation

All employees shall receive benefits as required by law to include Worker's Compensation insurance. This insurance provides compensation to any employee for lost wages due accidental injury, illness, or death suffered in the course of or as a result of his/her employment with the City in accordance with laws of the State of Idaho.

In the event an industrial injury or occupational illness of any kind, the following steps should be taken:

- a) Notify your Department Head immediately. An accident report must be filed within twenty four (24) hours of the onset of the injury/illness. It is important to report even minor injuries. Failure to report even any injury, illness or exposure caused in the workplace within twenty-four (24) hours may lead to disciplinary action.
- b) If in need of medical treatment, except in emergencies, obtain a signed authorization from your supervisor.

12. Insurance Coverage Available to Employees

Health insurance is available to employees and family members in accordance with the terms and conditions of the city's contract for such services. The Human Resources Specialist/City Clerk should be contacted to learn of sign-up and claims procedures. Other insurance offerings including life insurance, disability insurance, dental

insurance, vision insurance and supplemental income protection may be available at employee or city expense. The Human Resources Specialist/City Clerk should be contacted for additional information. Any such offerings are subject to change at any time.

13. Retirement

The retirement plan of the **City of Kimberly** combines benefits of the Public Employees Retirement System of Idaho (PERSI) with Social Security (FICA). PERSI mandates withholding a percentage of an employee's gross salary for pension purposes, which is presently exempt from Federal and State income taxes, and the **City of Kimberly** matches this with an additional larger contribution. Employees must meet the requirements established by PERSI to be eligible to participate. Contact the Human Resource Specialist/City Clerk Office for further information.

14. Miscellaneous Benefits

In addition to the benefits listed on the previous pages, the following miscellaneous benefits may be available to employees for participation in accordance with the terms of their respective policy or agreement:

- a. Employee-requested deduction programs subject to city policy.
- b. Provision of uniforms allowance.
- c. Parking privileges, use of the lunchroom and kitchen facilities..
- d. Further training and higher education reimbursement or tuition refund that is directly related to the employee's current job duties. Attendance has to be pre-approved by employee's Department Head and City Administrator, plus a grade of "C" or higher must be earned for the City to pay for the course.
- e. Any such offerings are subject to change at the City Council's sole discretion at any time.

15. Transfer of Benefits with Employee Transfer

Accrued benefits for each employee continue to the benefit of that employee if the employee transfers from one department to another within the **City of Kimberly**. Any such transfer will not result in a reduction of benefit offerings separate and apart from those realized by employees similarly situated.

V. EMPLOYEE PERFORMANCE AND DISCIPLINE

A. PURPOSE OF DISCIPLINE/PERFORMANCE POLICY

The purpose underlying the discipline/performance policy of the **City of Kimberly** is to establish a consistent procedure for maintaining suitable behavior and a productive working environment in the workplace. These procedures are directory in nature and minor variations of the processes set forth herein shall not affect the validity of any actions taken pursuant to this policy.

B. DISCIPLINARY/PERFORMANCE SYSTEM FRAMEWORK

The City of Kimberly adopts the following framework for actions to be taken in the event that any employee subject to this policy violates employment policies or fails to perform adequately. Progressive steps may be implemented in order to encourage improved performance or attitude, but are not required. **The City of Kimberly** reserves the right to take any of the prescribed steps in any order in the event that a supervisor deems a policy violation or action of the employee to be serious enough to warrant a certain step.

C. DISCIPLINARY ACTIONS AVAILABLE

The following actions are among the disciplinary steps that may be taken by the supervisor in response to personnel policy violations:

- Oral warning
- Written warning or reprimand
- Suspension without pay
- Demotion
- Dismissal

D. OPPORTUNITY TO BE HEARD—ASSERTIONS OF UNLAWFUL DISCRIMINATION AND “NAME-CLEARING HEARING”

All the **City of Kimberly** employees are AT-WILL employees. However, the **City of Kimberly** recognizes that even at-will employees may from time to time suffer from the adverse consequences of unlawful discrimination. The **City of Kimberly** also recognizes that a public employee who is being demoted with a reduction in pay or terminated from employment based upon allegations of dishonesty, immorality or criminal misconduct is entitled to a “Name-Clearing” hearing. *Cox v. Roskelley*, 359 F.3d 1105 (9th Cir. 2004).

Unlawful discrimination addresses actions that are alleged to involve decisions based upon age, sex, race, religion, national origin or disability that is not a bona fide occupational qualification. The **City of Kimberly** does not condone discrimination on the basis of the foregoing unlawful categories. **FAILURE TO PURSUE THIS OPPORTUNITY PURSUANT TO THIS POLICY SHALL CONSTITUTE A FAILURE TO EXHAUST REMEDIES UNDER THIS POLICY.** Any employee entitled to disciplinary hearing concerning job performance must raise allegations of unlawful discrimination or the need for a name-clearing hearing in the course of that disciplinary hearing, with such issues to be addressed as provided by this section of the policy. Issues involving job performance or employee attitude are not the proper subject of this procedure and will not be heard.

The elements of procedure to be followed and undertaken at the direction of the appropriate administrative officer or designated officer, unless waived by the employee, are the following:

1. The employee may, within fourteen (14) days of his/her termination or demotion, submit a written allegation of unlawful discrimination or the basis for entitlement to a "name-clearing hearing," stating with particularity the basis for the requested meeting. Written allegations filed untimely or failing to state a particular, legally recognized basis will not be granted an opportunity to be heard.
2. An employee alleging unlawful discrimination or the entitlement to a "name-clearing hearing" will be entitled to meet with the designated person, and the meeting will last no longer than two hours unless otherwise approved.
3. There shall be a record maintained, including a tape recording of the meeting.
4. The employee's supervisor, to the extent of his/her knowledge, may be required to provide a brief written statement in response to the particular allegation of discrimination or "name-clearing" request. The Mayor may request that the employee's supervisor participate in the meeting.
5. The employee will not be prohibited from having an attorney assist him/her at the employee's own expense.
6. The employee will be allowed to present oral testimony (or provide written statements) concerning evidence upon which the alleged discrimination or "name-clearing" is based.
7. The Mayor may ask the employee's witnesses questions for clarification purposes should that be necessary during the discussion process.
8. The employee shall not have the opportunity to question any participants during this process, but may submit written questions for the Mayor to consider.

9. The Idaho Rules of Evidence do not apply to this opportunity to be heard.

The opportunity to be heard shall take place as soon as it can be accommodated by the schedules of those involved. Additional time may be granted at the request of the employee upon a showing that additional time is needed to provide facts necessary to respond to the charges.

After the meeting, the Mayor or the responsible administrative officer shall consider the information submitted and such other information as might be in the city's records to arrive at a decision concerning the allegations. Said decision shall set forth the reasons for the determination in writing. If as a result of this opportunity to be heard, the Mayor finds fault with the basis for the City's action, remedial action may be prescribed, including restoration of employment and payment of back pay.

VI. DISCRIMINATORY WORKPLACE HARASSMENT POLICY AND COMPLAINT PROCEDURE

A. PURPOSE

The purpose of this Harassment Policy is to clearly establish the City's commitment to work to provide a work environment free from unlawful harassment, to define discriminatory harassment, and to set forth the procedures for investigating and resolving internal complaints of harassment. Because of the importance of a workplace free from unlawful harassment, this policy should be reviewed with each employee on a regular basis.

It is important that all employees treat all other employees and members of the public with decency and respect. It is the responsibility of each and every employee and Department Head to prevent inappropriate behavior in the workplace. Inappropriate behavior which impacts the workplace, or has the potential to impact the workplace, will **not** be tolerated and is grounds for possible immediate termination.

This Policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, job retention, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training.

B. POLICY

Harassment of an applicant for employment, a member of the public, or an employee by any employee of the City on the basis of race, color, religion, national origin, sex, age (40 and over) and disability is in violation of State and/or Federal law and will not be tolerated by the **City of Kimberly**.

Employees found to be participating in any form of employment-related unlawful harassment or retaliating against another employee for filing a complaint or cooperating with an investigation shall be subject to disciplinary action up to and including termination of employment.

C. RESPONSIBILITIES

The City: It is the responsibility of the City to develop this policy, provide training on this policy, keep it up to date, and to ensure that any violation of this policy brought to its attention is dealt with as required by law and according to this Policy.

The City should designate an official who will be responsible for following the Complaint Procedures as set out in this policy. This official will be referred to as the “Designated Official.”

Department Heads: It is the responsibility of Department Heads to enforce the policy, to train new employees on the policy, to make a regular review with all employees to ensure they know the policy and to regularly check the workplace to make sure the policy is being followed.

If a Department Head observes that unlawful discrimination, harassment or retaliation is occurring, he/she should take immediate action to address the problem. Such action should include, but is not limited to, speaking directly with the affected person, developing a specific account of the actions, omissions or occurrences that are deemed discriminatory, consulting with the supervisor, or a Department Head and taking corrective or disciplinary action as appropriate. If the alleged discrimination, harassment or retaliation is not within the supervisor’s area of responsibility or oversight, he/she

should notify the Department Head or City Administrator, who should then take prompt steps to address the allegation.

If unlawful harassment is reported or alleged, it must be followed up. No complaining party should be allowed to retract an allegation of unlawful harassment without proving that it was made erroneously. If a supervisor receives information that discrimination, unlawful harassment or retaliation might be occurring, he/she should follow the Complaint Procedure as set out in this policy below.

Employees: It is the responsibility of each and every employee to know this policy and to follow it. All City employees share the responsibility of understanding and preventing unlawful discrimination and harassment. But, ultimately, no satisfactory investigation or resolution of complaints can occur without the initiative and continued cooperation of the affected person. Individuals who believe they have been discriminated against or unlawfully harassed have the primary obligation of informing their supervisor, Department Head, City Administrator, Human Resource Specialist/City Clerk or legal counsel for the City of the act of discrimination, unlawful harassment or retaliation, recounting specific actions or occurrences whenever possible. It is imperative that every employee treat every other employee and members of the public with decency and respect so as to facilitate a sound professional work environment.

D. DEFINITIONS

For purposes of clarification, unlawful harassment includes but is not limited to the following behaviors:

1. **Verbal Harassment** – Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, color, religion, national origin, sex, age (40 and over) and disability whether made in general, directed to an individual or directed to a group of people regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate sexually-oriented comments, including dress or physical features, sexual rumors, code words, and race-oriented stories, as well as jokes of a sexual or discriminatory nature or “kidding” which is oriented towards a prohibited form of harassment.
2. **Physical Harassment** – Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, color, religion, national origin, sex, age (40 and over)

and disability. This includes pinching, patting, grabbing, inappropriate behavior in or near bathrooms, sleeping facilities and eating areas, or making explicit or implied threats or promises in return for submission to physical acts.

3. **Visual Forms of Harassment** – Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, e-mails, notes, bulletins, drawings or pictures on the basis of race, color, religion, national origin, sex, age (40 and over) and disability. This applies to both posted material and material maintained in or on City of Kimberly equipment or personal property in the workplace.

4. **Sexual Harassment** – Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

There are basically two types of sexual harassment:

- a. "Quid pro quo" harassment, where submission to unlawful harassment is used as the basis for employment decisions.

Employee benefits such as raises, promotions, better working hours, job retention, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Example: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.

- b. "Hostile work environment," where the unlawful harassment creates an offensive and unpleasant working environment.

Hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees, or the public. Hostile

environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

E. COMPLAINT PROCEDURE

The following complaint procedure will be followed in order to address a complaint regarding harassment, discrimination, or retaliation:

1. A person who believes he/she has been unlawfully harassed, discriminated or retaliated against should report it to their supervisor, Department Head, Mayor, Human Resource Specialist/City Clerk, or legal counsel for the City. If a supervisor becomes aware that unlawful harassment or discrimination is occurring in any city department as a result of an employee coming forward, the supervisor should immediately report it to a designated official pursuant to this policy. Once a complaint of unlawful harassment, discrimination or retaliation has been made, the complaint cannot be withdrawn by the complainant without a determination that is was made erroneously.
2. Promptly upon receiving the complaint, the Mayor should initiate the investigation to determine whether there is a reasonable basis for believing that an alleged violation of this Policy occurred.
3. Upon receiving the complaint, or being advised by a supervisor that violation of this policy may be occurring, the Designated Official should review the complaint with the City Attorney, the Human Resource Specialist/City Clerk or Mayor.
4. The Designated Official, in conjunction with legal counsel for the City, should engage an appropriate person to investigate the complaint. The investigator should be a neutral party.

5. The investigator will interview the complainant, the respondent, and any relevant witnesses to determine whether the conduct occurred.
6. As soon as practical, the investigator will conclude the investigation and submit a report of his or her findings to the Designated Official, who then will route it as appropriate.
7. If it is determined that unlawful harassment or discrimination in violation of the City's policy has occurred, the appropriate official will recommend the appropriate course of action to be taken by the City. The appropriate action will depend on the following factors:
 - a. The severity, frequency and pervasiveness of the conduct;
 - b. Prior complaints made by the complainant;
 - c. Prior complaints made against the respondent; and
 - d. The quality of the evidence (firsthand knowledge, credible corroboration, etc.).
8. If the investigation is inconclusive or it is determined that there has been no unlawful harassment or discrimination in violation of this Policy, but some potentially problematic conduct is revealed, corrective action may be taken.
9. Promptly after the investigation is concluded, the Department Head(s) will meet with the complainant and the respondent separately in order to notify them in person of the findings of the investigation.
10. The complainant and the respondent may submit statements to the supervisor(s) challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) working days after the meeting with the supervisor(s) in which the findings of the investigation is discussed.

11. Promptly after the supervisor(s) has met with both parties and reviewed the documentation, he or she will decide, after consultation with legal counsel, what action, if any, should be taken.

F. DISCIPLINARY ACTION

If unlawful harassment is determined to have occurred, the supervisor should take prompt and effective remedial action against the harasser. The action should be commensurate with the severity of the offense, up to and including termination of employment.

G. RETALIATION

Retaliation in any manner against a person for filing an harassment charge or initiating an harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and subject to disciplinary action **up to and including termination**. The City Administrator, Department Head and Mayor should take reasonable steps to protect the victim and other potential victims from further harassment or related consequences.

H. CONFIDENTIALITY

Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State and local law. However, a complete and thorough investigation of the allegations will require the investigator to inform witnesses of certain aspects of the complaint in order to obtain an accurate account of the actions of the parties involved.

I. FALSE COMPLAINTS

Any complaint made by an employee of the City regarding employment-based harassment which is conclusively proven to be false, should result in discipline. This discipline may include termination of employment. This section is not intended to discourage employees from making complaints regarding employment-based harassment. However, false

complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.

J. DISTRIBUTION

Access to this policy shall be provided to all employees, supervisors and Elected Officials of the City either by paper or electronic copy. Any questions, concerns or comments related to this policy should be directed to the Department Head, City Administrator, Human Resource Specialist/City Clerk, Mayor, or City Attorney.

The position of Human Resource Specialist/City Clerk is appointed as the Designated Official for the purposes of this Policy.

VII. SEPARATION FROM EMPLOYMENT

A. REDUCTIONS IN FORCE (RIF)

When financial circumstances or changes of workload require, the **City of Kimberly** reserves the right to reduce forces or reorganize the office in such manner as it deems necessary to maintain the effective functioning of the **City of Kimberly** services.

B. RETIREMENT POLICY

The retirement policy of the **City of Kimberly** shall comply in all respects with federal and state requirements respecting mandatory retirement and the obligations established by the Public Employees Retirement System of Idaho (PERSI).

C. COBRA BENEFITS

Employees of the City of Kimberly who currently receive medical benefits, who separate their employment may be eligible to continue those medical benefits for a limited time in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). If you have any questions regarding your right to continue your health coverage after separating from the City of Kimberly please contact the Human Resource Specialist/City Clerk.

D. EXIT INTERVIEW

Each employee who terminates from employment with the **City of Kimberly** is encouraged to participate in an exit interview with the Human Resource Specialist/City Clerk or City Administrator, or in the event of involuntary termination with the personnel officer. In such an interview, the employer should notify the employee when certain benefits terminate, when final pay will be issued, and review the process to receive COBRA benefits, if available. The employee will be invited to inform the interviewer about his/her impressions of employment in such interview. An employee exit form may be completed at this point and will be retained in the employee's personnel file.

E. RESIGNATION POLICY

Voluntary resignations will generally be made in writing. If the employee wants their formal records to indicate "voluntary resignation", they must do so in writing to their Department Head or City Administrator. Evidence of acceptance of a resignation should be provided to the ex-employee if possible. Employees who have an unexcused or unauthorized absence of three (3) working days or more may be considered to have abandoned their position and therefore resigned.

Mayor

Adoption Date

Attested By: _____

Clerk

Date

APPENDIX "A"

ACKNOWLEDGMENT OF RECEIPT OF THE CITY OF **City of Kimberly** PERSONNEL POLICY

I, _____ acknowledge receipt of the _____
Personnel Policy, adopted on _____.

- I understand that it is my responsibility to read and review this Policy.
- I understand that this Policy is not a contract and cannot create a contract.
- I understand that I am obligated to perform my duties of employment in conformance with the provisions of this Personnel Policy Manual and any additional rules, regulations, policies or procedures imposed by the department in which I work whether or not I choose to read the new Policy.
- I understand that this Policy may be modified without prior notice to me.
- I understand that should this Policy be modified that I will be provided with a copy of the modifications.
- I understand that this Policy may be provided to me in either paper format or by electronic access.

DATED this _____ day of _____, 20_____.

(Employee)

I, _____, provided a copy (either electronically or by paper) of the **City of Kimberly** Personnel Policy, as adopted by the City Council on _____ to _____, on this _____ day of _____, 20____.

(Name - Title - Department)

APPENDIX "B"

ADMINISTRATIVE POLICIES

Credit Card Usage

Employees are issued credit cards based on their need for usage. The credit limits will be issued by the Department Head or City Administrator. It will be the employee's responsibility to maintain and submit to the accounts payable clerk all receipts for charges applied to his/her credit card. Expenses that are not accompanied by a receipt will not be paid by the City and are the responsibility of the employee. Failure to produce a receipt is a violation of this policy. If an employee discovers a mistake on his/her statement, it is their responsibility to bring it to the immediate attention of their department supervisor.

Only official the City of Kimberly business charges should be placed on the credit card. Under no circumstances will a City credit card be used for personal expense and/or purchases. There will be no cash withdrawals allowed on the City of Kimberly credit card. All transactions will be reviewed by the Department Head and accounts payable clerk for authenticity, before being submitted to the City Council for approval for payment. Questionable expenses may not be paid by the City and then become the responsibility of the employee. Violation of this policy may result in loss of credit card privileges and/or disciplinary action, up to and including termination.

Travel

The City Council has established a daily spending allowance for business travel. This amount may be adjusted periodically. A travel request form should be completed prior to travel and presented to the department supervisor for approval. The department supervisor will present to the City Administrator for approval, before being submitted to the Mayor for final approval. It is the employee's responsibility to complete the form properly to ensure proper payment to the employee for his or her travel request.

In addition, it is the traveling employee's responsibility to ensure that the business trip charges do not incur any tax charges, since the City of Kimberly is exempt from tax.

Phone Usage

City telephones are to be used for business purposes. Customer service and meeting job expectations are to be top priority at all times and will be managed by department supervisors.

An employee may be issued a cell phone by their department supervisor for the purpose of performing their job duties. The employee is responsible for taking care of and maintaining the equipment. The purpose of the cell phone is for business purposes and not for personal usage. Cellular phone invoices will be randomly monitored by the department supervisors for compliance. If a personal call is made or received, it is the employee's responsibility to monitor the time spent during the conversation, while not jeopardizing time away from his/her job performance.

Office phones are for business use and personal calls should be kept to a minimum, so they do not interfere with the employee's ability to perform his/her job, as well as hindering co-workers ability to perform their job. Outgoing local personal telephone calls of short duration may be made during breaks or lunch periods. Incoming personal phone calls should be taken as brief message only. Long distance calls may not be made unless the charges are reversed or charged to an employee's personal credit card.

Purchasing

Department supervisors are able to identify and appoint individuals in their departments to have purchasing/charging capabilities. It is the employee's responsibility to pre-authorize any purchases over the identified limit established by the department supervisor. Any purchase should include a purchase order number, which can be obtained through the accounts payable clerk.

The department supervisors are able to purchase up to \$500 without approval from the City Council. Anything above the established \$500 would need approval from the City Council. In addition, it is the responsibility of the department supervisor to review and determine budget availability for purchases within his/her department.

When purchasing personal property or services valued in excess of \$25,000.00, the City of Kimberly is required to follow the purchasing procedures established by Idaho Code Section 67-2801, et. seq.

The use of City established business accounts for personal use is prohibited.

Other

Using the City of Kimberly's equipment and premises (facilities) for personal use is subject to the prior approval of the Mayor and City Council. Personal use does not include use of facilities or equipment for personal monetary gain. This type of use is strictly prohibited. In addition, there should not be any service on behalf of the City of Kimberly to employee's private property that would not be given to any other resident.

APPENDIX "C"

INFORMATIONS SYSTEMS POLICY

Computer Usage

As a Government agency that values the trust and confidence of the public, we have high standards for the use of our City equipment. The policies and guidelines outlined below are designed to enhance the efficient and effective use of the computers and the systems they encompass.

To protect against viruses, users are not to download executable files or application software (including, but not limited to utility software, freeware and shareware); without the consent of the director of I.T. This will ensure that the program will be compatible with the current software, as well as verify the authenticity of the download.

It is unacceptable to knowingly or intentionally publish, display, transmit, retrieve or store inappropriate or offensive material on any City computer system.

Internet, Voice Mail and Electronic Mail Usage

Internet access to global electronic information resources on the World Wide Web is provided to the City of Kimberly to assist employees in obtaining work-related data and technology. These systems are in place to facilitate your ability to efficiently and productively do your job. To that end, these systems are solely for business purposes. The following guidelines have been established to help ensure responsible and productive computer usage. While computer usage is intended for job-related activities, incidental and occasional brief personal use is permitted within reasonable limits. Only "incidental personal use", (see below) that does not interfere with work or consume the City of Kimberly resources will be allowed.

All computer data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of the City of Kimberly and, as such, is subject to disclosure to law enforcement or other third parties. Anything you create or load on the systems becomes the property of the City of Kimberly. Consequently, employees should always ensure that the business information contained in Internet e-mail messages and other transmissions is accurate, appropriate, ethical, and lawful.

The equipment, services, and technology provided to access the computer contents remain at all times the property of the City of Kimberly. As such, the City of Kimberly reserves the right to monitor Internet traffic, and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems. The City of Kimberly reserves the right to intercept, monitor, copy, review and download any communication or files you create or maintain on these systems, at any time, without prior notice to you.

The City of Kimberly purchases and licenses the use of various computer software programs for business purposes. The City of Kimberly does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the City of Kimberly does not have the right to reproduce such software for use on more than one computer. Employees may only use software on local area networks or on multiple machines according to the software license agreement. Illegal duplication of software and its related documentation for personal use is also prohibited

Data that is composed, transmitted, accessed, or received via the Internet must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any other comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any other characteristic protected by law.

Abuse of email, voice mail and the Internet access provided by the City of Kimberly in violation of law or the City of Kimberly policies will result in disciplinary action, up to and including termination of employment. Employees may also be held personally liable for any violations of this policy. Employees should always ensure that the business information contained in Internet E-mail messages and other transmissions are legal, accurate, appropriate and ethical. The following behaviors are examples of previously stated or additional actions and activities that are prohibited and can result in disciplinary action:

* Sending or posting discriminatory, harassing, or threatening messages or images

- * Using the organization's time and resources for personal gain. Such as: E-Bay, Pay Pal, etc.
- * Stealing, using, or disclosing someone else's code or password without authorization
- * Sending or posting messages or material that could damage the organization's image or reputation
- * Participating in the viewing or exchange of pornography or obscene materials
- * Sending or posting messages that defame or slander other individuals
- * Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities
- * Using the Internet for political causes or activities, religious activities, or any sort of gambling
- * Sending anonymous e-mail messages
- * Unauthorized use, installation, copying or distribution of copyrighted, trademarked or patented material.
- * Engaging in unauthorized transactions that may incur as a cost to the organization or initiate unwanted Internet or e-mail services and transmissions.
- * Attempting to break into the computer system of another organization or person.
- * Jeopardizing the security of the organization's electronic communications systems.
- * Passing off personal views as representing those of the City of Kimberly.
- * Unauthorized participation in or use of chat rooms.
- * Logging on or using another employee's computer without authorization.

- * Spending time playing games
- * Refusing to cooperate with a security investigation
- * Engaging in any other illegal activities

Regular monitoring of Internet/Email activity may occur without prior notice to the employee.

As indicated in this policy, computers, Internet access and e-mail are provided primarily for work related activities. However, occasional personal use may be permitted on a limited basis within the guidelines established by this policy provided that such use does not result in a cost to the City of Kimberly or interfere with the City of Kimberly business operations, availability of resources for business use or the employee's job performance.

Your consent to and compliance with these information system policies is a term and condition of your employment. Failure to abide by these rules or to consent to any interception, monitoring, copying, reviewing, and downloading of any communications or files is grounds for discipline, up to and including termination.

APPENDIX "D"

FLEET VEHICLE POLICY

Purpose

This Policy outlines the City of Kimberly Fleet Vehicle and Equipment Usage Policy. The purpose of this policy is to provide a guideline for the safe operation and maintenance of City owned vehicles and equipment.

Operators of the City of Kimberly-owned or leased motor vehicles shall always drive safely, legally and courteously, remembering that they are directly responsible for maintaining both the City of Kimberly-owned property and public trust.

Use

Vehicles owned or leased by the City of Kimberly are to be used for the purpose of carrying out the functions of the City and for all other uses as authorized by the department's policies.

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance and follow all operating instructions, safety standards and guidelines. Regular maintenance and upkeep should be performed on equipment to help prolong the equipment's life.

Employee should notify the supervisor if any equipment, machines, tools or vehicles appear to be damaged, defective or in need of repair. Prompt reporting of damages, defects and the need for repairs could prevent deterioration of equipment and possible injury to employees or others.

The improper, careless, negligent, destructive or unsafe use or operation of equipment of vehicles as well as excessive or avoidable traffic and parking violation can result in disciplinary action, up to and including termination of employment.

Assigned drivers

Each employee assigned to a City of Kimberly vehicle or employees, who from time to time, operate a City of Kimberly fleet vehicle, are required to have a valid Idaho Driver's license.

Should an employee's Driver's License expire, be revoked or suspended, the employee shall immediately notify his or her supervisor. At which time the employee's City of Kimberly vehicle-use privileges will be suspended until the employee's Driver's License has been fully restored and validated.

In addition to the employee assigned to a vehicle, he or she may allow other employees to operate the vehicle.

Employee responsibilities

Each employee assigned a City of Kimberly vehicle shall be responsible for the following:

Proper and safe operation of the vehicle;

Servicing and maintaining the vehicle in accordance with the manufacturer's recommendations;

Maintaining vehicle registration, plates and inspections

Seatbelt use

All drivers and passengers are required to utilize seatbelts as mandated by law.

Commuting

The City Council may authorize an employee to drive a City vehicle home based on their position with the City and/or the needs of the position. Employees who are allowed the use of City vehicles both on and off the job are given this benefit due to

the nature of their work and service to the City. This is at the convenience of the City, as the employer and as an aid in the performance of specified positions. There may also be a vehicle assigned for an on call purpose, which may be taken home by the employee during their on-call hours.

Except for emergency response vehicles, personal use of a city-owned vehicle is taxable to the employee. "Personal Use" includes any use outside the scope of employment. Exempted from the general rule are the following:

Police Vehicles

Qualified specialized utility repair vehicles when the following conditions apply:

The City requires the duty person to take a City vehicle home to be able to respond in emergency situations or for restoring or maintaining water and sewer services.

The city vehicle is clearly marked with decals or is equipped with permanently installed working tools and accessories.

City vehicles are not to be used for personal use. Employees required to take City vehicles home or driving a City vehicle for personal use, will be charged for commuting at the mileage rate established by the IRS (IRS Publication 15-B) except for emergency response vehicles, which are exempt. The value is required to be added to the employee's reportable, taxable income for federal and state income tax purposes. The City can exclude the value of any *de minimis* transportation benefit from an employee's wage. A *de minimis* benefit is any benefit that is provided to an employee if it has so little value that accounting for it would be unreasonable or administratively impracticable.

Insurance

The City of Kimberly provides bodily injury and property damage automobile liability insurance, uninsured and underinsured motorist, physical damage comprehensive and collision coverage through a third party provider.

The employee driver must make sure that the current insurance card is kept in the vehicle at all times.

Accident reporting

In the event of an accident, the driver shall, if possible, first check on the safety and welfare of all persons involved and seek immediate medical attention should it be required for themselves or others.

Drivers shall always have a police officer investigate any accident that involves a City of Kimberly vehicle. This will help ensure that the City of Kimberly is protected from unwarranted claims.

Drivers shall notify their supervisor as soon as possible of the accident and report the extent of the injuries and property damage involved.

Drivers shall complete and submit to the City Administrator a "City of Kimberly First-Party Vehicle Damage Form" for handling of the claim.

Drivers shall cooperate fully with the Claims Department in the handling of the claim.

IN NO INSTANCE SHOULD RESPONSIBILITY FOR AN ACCIDENT BE EXPRESSED TO ANYONE WITHOUT FIRST CONSULTING THE CITY'S ATTORNEY.

Traffic violations

All fines and other criminal penalties due to violations of the law by the driver are the personal responsibility of the driver of any City of Kimberly vehicle. These costs are not reimbursable by the City of Kimberly and must be paid promptly by the driver.

Vehicle maintenance and repair

If the City of Kimberly vehicle is in need of major repairs, the dealership where the vehicle was purchased or leased should handle the repairs under the warranty service provisions of the contract.

Prior to scheduling major repairs or major maintenance needs with a repair facility, the driver must advise the City Administrator for approval and any further instructions.

If the vehicle becomes disabled or in need of immediate repairs while the driver is traveling out of town, he or she may drive the vehicle, or have it towed, to the nearest vehicle dealership for repair. If the dealership is not able to repair the vehicle within a

reasonable time period, the driver may make arrangements for alternative transportation.

The City of Kimberly maintenance department is entrusted with the care and keeping of the vehicles and may assign that responsibility to an employee at their discretion.

Tobacco use prohibited in vehicles

Tobacco (including smokeless tobacco and tobacco-less tobacco) use is expressly prohibited in all City of Kimberly vehicles. (Reference section III.C.11).

APPENDIX "E"

SUBSTANCE ABUSE POLICY

Statement of Purpose

To establish a drug-free work place for the safety and health of our employees, citizens and the general public.

Policy

In keeping with the City's objective to provide a safe and healthy work environment. It is the City's policy that:

The possession, sale, transfer, attempt to sell, or use of illegal drugs including, but not limited to marijuana, cocaine, pcp, opiates, and amphetamines, or alcohol, while on the job or on City property is strictly prohibited. Any illegal substance that is found in the possession of an employee or on the premises will be turned over to appropriate law enforcement agencies and may result in criminal prosecution.

Employees will not be permitted to work with a detectable level of prohibited drugs and/or alcohol in their system. Prohibited drugs include both legal substances and prescription drugs that have not been specifically prescribed by a licensed physician for specific treatment purposes of the employee.

All employees must report any convictions under a criminal drug statute occurring on or off the City's premises while conducting City business. A report of a conviction must be made to the City of Kimberly within five (5) days after the conviction.

When supervisory personnel determine there are reasonable grounds to believe an employee is under the influence of or in possession of any substance prohibited by these standards or is otherwise in violation of these policies, the City may:

Search any of the employee's or City's property. Such search can include the employee's purse, bag, outer garments, (hat, sweater, coat, etc.), locker, desk, office, car, or any other property located on the City premises; and

Require that the employee submit to appropriate test/tests to determine the existence of prohibited substances within their system. Selection of specific testing technique is at the discretion of supervisory personnel or a physician, most frequent methodology will, however, be urine drug screen.

Violation of the above indicated policies may result in disciplinary action up to and including termination of the employee.

Substance Testing

To support the objective of a drug and alcohol free work place, testing for substances is required under the following circumstances:

Pre-employment:

All applicants who are being seriously considered for any position with the City must test free of drugs or alcohol as a condition of employment. No applicants will be employed until a negative drug/alcohol screen is forwarded to the City. Applicants who are confirmed positive as a result of the drug testing program will not be reconsidered for available positions for a minimum of twelve months.

Post-accident:

Any employee, whose performance either contributed to an accident or cannot be completely discounted as a contributing factor to an accident, will be tested based upon the following conditions:

If the accident caused injuries resulting in medical treatment being provided by a physician (other than first-aid), the responsible individual(s) will be tested.

Accidents resulting in significant property damage will also result in the testing of responsible individual(s).

Reasonable Cause:

The City may require an employee to be tested when there is reasonable cause for management to believe that an employee is under the influence of a substance, including alcohol. Decision to test an individual under the reasonable cause section of this policy must be based on specific physical, behavioral or performance indicators of probable drug/alcohol use. Two supervisors must observe and concur in the decision to test.

Random:

The City may, in its absolute discretion, engage in random drug/alcohol testing of safety sensitive (any employee who holds a position of a safety sensitive nature which may include, but are not limited to: Police, Public Works) City employees during the year. This random testing shall be designed and administered by the testing agency or laboratory to assure that all tests are random. Such testing shall involve one employee per month, selected by the testing agency.

Right Not To Be Tested

An employee does have the right to refuse to be tested or have personal property searched. However, refusal to submit to a search or inspection of his or her person or personal property located on the City's premises, work site of employee, or refusal to submit to physical testing (e.g., urine sample, blood sample, physical examination, sobriety examination), is grounds for disciplinary action up to and including termination. Refusal to sign this policy and submit your sample on demand constitutes a refusal.

Right to Explain Positive Test Results and Request for Retest

This program is not intended to violate individual rights. It is intended to provide for a drug free environment that enhances the performance of the responsibilities assigned to employees.

All individuals who are required to be tested under the conditions of this policy will provide appropriate samples. The actual analysis of all samples will be conducted by St. Luke's, Magic Valley Regional Medical Center, Twin Falls, Idaho, or any other laboratory approved by the State of Idaho. All sample collection activity will be consistent with the requirements established by the National Institute on Drug Abuse (N.I.D.A.) to assure the validity, confidentiality, and security of the samples and test results.

Refusal to submit to testing or adulteration of samples by perspective employees or current employees shall be grounds for disciplinary action as specified previously.

All test results will be maintained in a manner which assures the confidentiality of the test results. All test results will be maintained by City of Kimberly and will be available to other parties only upon specific written consent of the individual tested or as required by law or to respond to a claim against the City.

All perspective and current employees will be fully informed of the substance abuse testing policies and procedures prior to any testing being administered. Employees will be provided with information concerning the impact of the use of drugs on job performance. The City shall inform the employees of the reasons for conducting testing, the tests to be conducted, what the tests have determined, and the consequences of testing positive for drug or alcohol use. All covered employees, current and perspective, will be provided with a copy of this policy and indicate by their signature that they understand and agree to adhere to this policy. No employee will be tested until this information is provided to him/her.

The City recognizes drug and alcohol dependency as an illness and a major health problem. It is also a health, safety and security threat to the business. Employees who need help in overcoming such dependency should contact their supervisor, or

available alcohol and drug abuse treatment resources within the community. A voluntary, conscious effort to seek such help will not jeopardize employment. The City will maintain a list of resources available to assist an employee who may wish to seek assist.