**SECTION II – EMPLOYMENT**

**A. POLICY STATEMENT**

It is the policy of the City of Kingston to apply and foster a sound program of personnel management. The policies of the municipal government are established to:

**Equal Employment Opportunity**

It is the obligation of the city of Kingston to provide equal opportunity employment to all employees and applicants for employment. No person will be discriminated against in the employment process because of race, color, religion, sex, age, national origin, disability, military status, or any other protected class. This includes the right of applicants/employees to communicate with elected officials, free speech, refusing to participate in or remain silent about illegal activities, and exercising a statutory constitutional right or any right under clear public policy, political affiliation, and genetic information or any other basis protected by law. The City of Kingston will provide reasonable accommodation to individuals under the Americans with Disabilities Act unless the accommodation would pose an "undue hardship" on the City. The policy applies to all terms, conditions, and privileges of employment and all policies of the City, including hiring, placement, training, employee development, promotion, transfer, compensation, benefits, layoff, terminations, and retirement.

**B. APPLICATIONS**

Applications are only accepted when vacancies exist and will only be considered for the specific position applied. The City of Kingston does not keep applications on file after a position closes, unless required by records retention policies.

An applicant will be removed from consideration if he/she:

1. is related to any Member of the City Council, is related to the Department Head, City Manager, or Supervisor for which the vacancy exists;
2. declines an appointment when offered;
3. cannot be located by the postal authorities — it shall be deemed impossible to so locate an applicant when a communication mailed at the last known address is returned unclaimed;
4. is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law;
5. has made a false statement of material fact on the application;
6. does not file the application within the period specified in the application/ examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation;
7. does not possess the minimum qualifications as indicated by the classification plan;
8. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;
9. pose a direct threat to themselves or others; or
10. is unable to perform the essential functions of a specific position due to a disability not protected by the ADA.

**Job Announcements**

Department Heads who need to fill a job opening should contact the Human Resource Clerk in order to begin the recruitment process. The City Clerk will prepare and publicize job announcements in order to bring notice of vacancies to as many qualified persons as possible.

**C. RECRUITMENT BY EXAMINATION**

All appointments in the municipal government service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant to efficiently discharge the duties of the position to be filled.

**D. TYPES OF EXAMINATIONS**

The examinations held to establish eligibility and fitness for any class may consist of one or more of the following types of examinations as determined by the City Manager who will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

1. **Written Test -** This part, when required, shall include a validated written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking appointment.

2. **Oral Test** - This part, when required, shall include a personal interview where the ability to deal with others, to interact with the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.

3. **Performance Test** - This test, when required, shall involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given a weight in the examination process, or may be used to exclude from further consideration applicants who:

1. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves or others.

4. **Physical Agility Test** - When required, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given a weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required job-related standards.

5. **Mental Test** - When required, this shall include any test to determine mental alertness, psychological state/stability, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.

6. **Pre-employment Drug Test** – Pre-employment drug testing will be conducted on all positions. Positive results on the drug test can result in an applicant being denied employment.

**E. NOTIFICATION AND INSPECTION OF EXAMINATION RESULTS**

Each person who takes an examination shall be notified by first-class mail or other appropriate means of his/her standing on the eligible list (if one is maintained) or of his/her passing or failing. Each person in an examination may inspect his/her rating and the examination papers within ten city business days of notification of the results. These inspections shall be permitted only during regular business hours and at the office of the City Manager.

**F. MEDICAL EXAMINATIONS AND GENERAL PHYSICALS**

**(Pre-employment)**

Following a conditional offer of employment, every prospective employee, will be examined by a licensed medical physician who will be designated by the City of Kingston. This exam will determine whether prospective employees can perform the essential functions of the position offered. The cost of this medical examination shall be borne by the city. Prospective employees who are unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or

2. pose a direct threat to themselves and/or others.

**Post-employment**

All employees of the City of Kingston may, during their employment, be required by their department head, with the approval of the City Manager, to undergo periodic examinations to determine their physical and mental fitness to continue to perform the work of their positions. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the City Manager.

When a city employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the City Manager, his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by both physicians. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid by the non-prevailing parties.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the municipal government service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or

2. pose a direct threat to themselves and/or others.

Employees not covered by the Family Medical Leave Act (FMLA) may also be required to have a medical examination on other occasions when the examination is job related and consistent with business necessity. For example, a medical examination may be required when an employee may be exposed by certain work conditions, request an accommodation for a disability, or the ability to perform the job for which the employee is being considered must be verified.

**G. MINIMUM AGE**

The FLSA requires that employees of state and local governments be at least 16 years old for most non-farm jobs and at least 18 years old for non-farm jobs declared hazardous by the secretary of labor. Minors 14 and 15 years old may work outside school hours under certain conditions.

**H. NEW HIRES, PROMOTIONS, DEMOTIONS, AND TRANSFERS**

Pursuant to the City charter, the City Manager has the authority to hire, promote, demote, transfer, suspend, and remove all officers and employees of the City of Kingston. All vacancies in the municipal government service will be filled by new hires, re-employments, promotions, appointment, conditional hires, transfer, or demotion.

Whenever a department head wishes to fill a vacancy, a request for appointment must be submitted in writing by the department head to the City Manager and, if determined to be appropriate, shall then proceed to fill the position in accordance with the following:

1. **Original Appointment** - When a non-employee passes all the tests of employability and is offered employment.

2. **Emergency Appointments** - The City Manager may authorize the appointment of any qualified person to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed ninety (90) days in any twelve (12) month period.

3. **Promotion** - A promotion is an assignment of employee from one position to another that has a higher maximum pay rate, rank, and responsibility. Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by the promotion or transfer of employees in the service. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When an employee in one position is promoted to another position and the employee's current pay rate is less than the minimum rate for the new position, the employ­ee's salary shall be raised to that minimum rate.

4. **Transfer** - When an employee desires to transfer from one department to another, it should be agreeable to both department heads involved and must be approved by the City Manager. If transferring to a less paying assignment, employee’s salary shall be reduced accordingly. The transfer of an employee from one position to another without significant change in level may be effective:

a. when the employee meets the qualification requirements for the new position;

b. if it is in the best interest of the city; and

c. if it meets the personal needs of the employee as consistent with the other requirements of these rules.

An employee who transfers from one city government department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer. As a general rule, lateral transfers require no increase in compensation.

5. **Demotion** - A demotion is an assignment of an employee from one position to another that has a lower maximum pay rate, rank, and responsibility. An employee may be demoted for any of the following reasons:

a. because his/her position is being abolished and he/she would otherwise be laid off;

b. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;

c. because there is a lack of work;

d. because there is a lack of funds;

e. because another employee, returning from authorized leave granted in accordance with the rules of leave will occupy the position to which the employee is currently assigned;

f. because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds;

g. because the employee voluntarily requests such a demotion, it is available, and complies with restrictions in H.4 above.

h. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job; and/or

i. as a form of disciplinary action (Note: the City of Kingston is an At-Will employer).

When an employee is demoted and the employee pay rate is higher than the maximum rate for the new position, the employee's salary shall be reduced to the maximum rate for the new position.

## I. CITIZENSHIP AND IMMIGRATION STATUS VERIFICATION

## The local government will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the municipal government will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be subject to separation.

## J. PERFORMANCE / EVALUATION

While the City of Kingston is an at-will employer, they recognize the value of employees with regular feedback. The performance of all employees may be evaluated at least annually by their immediate supervisor. Written evaluations will be discussed with the employees so they will know how they are progressing and what they may do to improve their performance.

The evaluation shall be in writing on the form prescribed by the City Manager and shall be discussed with the employee so that he/she will know how he/she is progressing and what he/she may do to improve his/her performance. By this means, it is intended that each employee will have adequate opportunity to discuss performance.

**K. FIRST DAY OF EMPLOYMENT / ORIENTATION**

New employees shall be required to complete or provide the following documents and forms before beginning work:

1. W-4 form;
2. Signed acknowledgement form from the employee Personnel Policies and Procedures handbook;
3. Immigration Control and Reform Act (I-9);
4. A copy of educational certification, professional license, or certificate required per the job description;
5. Emergency telephone numbers;
6. a copy of driver's license (if the position requires driving a local government vehicle) or some type of government issued identification;
7. a copy of driver's auto insurance card, if applicable;
8. other documentation as required by the City, local, state or federal law.

**L.** **MOONLIGHTING/OUTSIDE EMPLOYMENT**

With the approval of the City Manager, "moonlighting" is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Kingston. Before outside employment begins, employees must present a written request describing the work to be performed.

Employees missing work because of sickness, injury, or other matter (i.e., fatigue) that can be attributed to a second job will not receive pay or other normal benefits for time lost from their municipal government employment. Approval of a second job may be withdrawn for any of the above reasons.

Police and fire departments may have their own policies on use of uniforms and equipment and when such may be used in the course of outside employment. Police Officers that provide security related duties for businesses or associations must provide proprietary security license on contract license information for insurance purposes.

**M. WORKDAY/WORKWEEK**

Pursuant to the Fair Labor Standards Act (FLSA), a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Generally, five days per week constitute a workweek for regular employment. Police and Fire / public safety employee schedules may entail more or less days in the workweek. A standard workweek is scheduled between 8 a.m. Monday through 8 a.m. the following Monday.

**N. ATTENDANCE**

The city provides a variety of forms of leave to cover absence from work. Unless there are emergency factors involved, leave is to be requested at least 25 hours in advance for sick leave, and two weeks in advance for vacation leave. Punctual and regular attendance is necessary for the local government to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department and prior to the work shift. Employees must explain the reason for the absence and, if possible the anticipated time and date they will return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found cheating on their time sheets or excessively tardy will be subject to disciplinary action up to and including termination of employment.

**O. TIME REPORTING / TIME CLOCKS**

All employees, except FLSA exempt employees, must utilize a time clock. FLSA Exempt employees must record their time worked on provided time sheets. Employees may not clock in

or out for fellow employees. Disciplinary action or even termination may be imposed on those employees who clock in or out for a fellow employee. Each employee is responsible of the timely and accurate tracking of hours. An employee who fails to clock in or out must have a valid explanation and approval from his or her immediate supervisor or otherwise is subject to disciplinary action. Employees found cheating on their time sheets or excessively tardy will be subject to disciplinary action up to and including termination of employment.

**P. NEPOTISM POLICY**

No person shall be employed by the City who is related to any Member of the City Council, or is related to the City Manager. No person shall work in the same department as a family member as defined below. The relationships prohibited by the nepotism rule are:

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| --- | --- |
| * Spouse * Parent (step and in-law) * Child (including step-children) * Grandparent (step and in-law) * Grandchild (includes step-grandchildren) | * Sibling (including in-law) * Great-grandparent * Great-grandchild * Aunt /Uncle * Niece or Nephew |

**Q. PERSONNEL RECORDS**

Personnel records for each employee are kept on file and maintained by the Personnel Clerk. Any change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training should be turned in to the supervisor for transmittal to the personnel section.

The Personnel Clerk also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The personnel clerk will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to report and update personnel information in his/her personnel file by notifying the Personnel Clerk of any information changes or corrections. The City of Kingston shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep personnel records current.