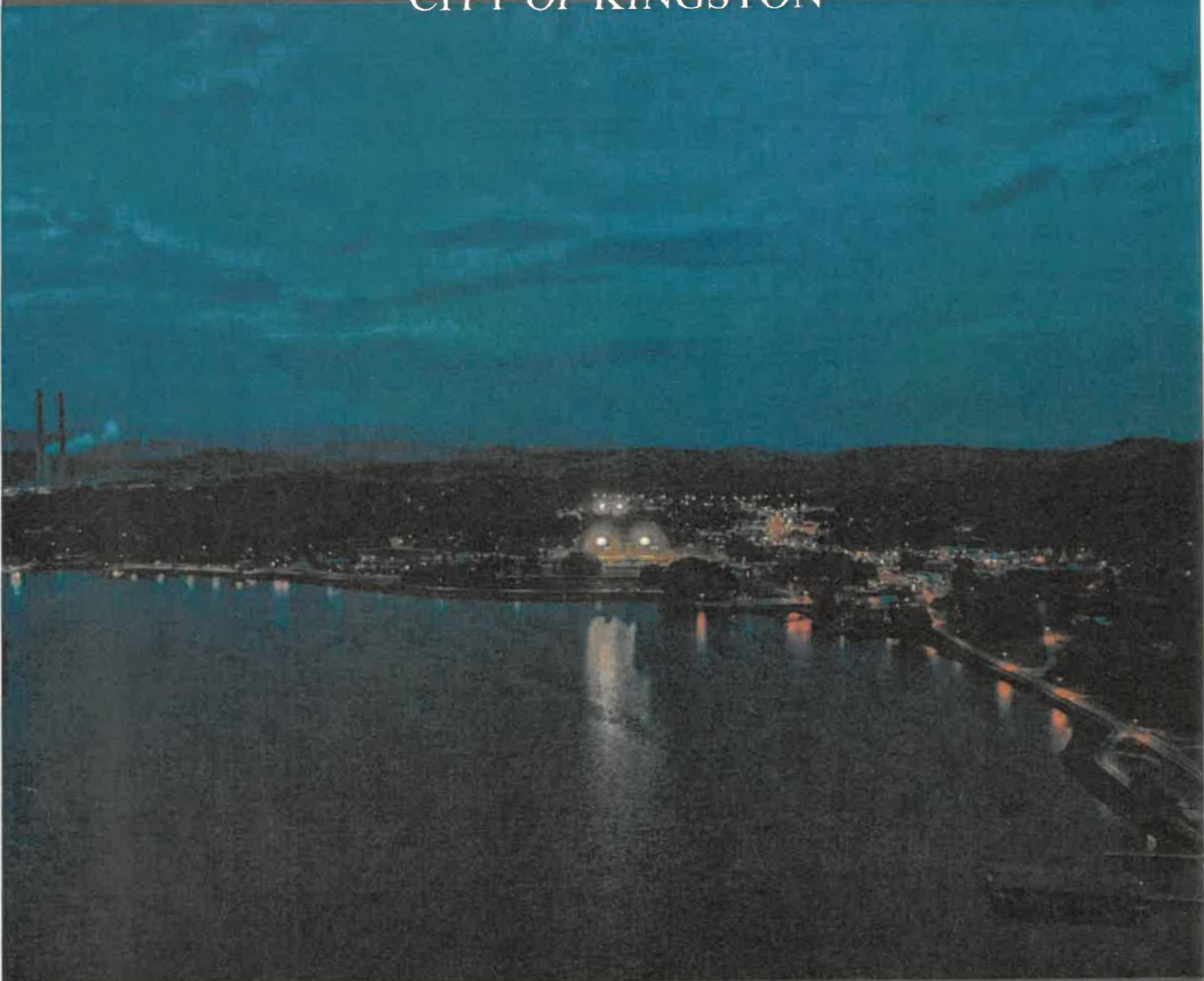


CITY OF KINGSTON



Personnel Policy Manual

2023 Revision

Adopted by Ordinance 23-11-14-02

ORDINANCE 23-11-14-02

**AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE
CODIFICATION AND REVISION OF THE PERSONNEL RULES AND REGULATIONS
OF THE CITY OF KINGSTON.**

WHEREAS, the City Council of the City of Kingston has heretofore adopted a personnel system pursuant to Article 6, Section 6.02 of the Kingston City Charter; and,

WHEREAS, the Personnel Rules and Regulations of the City of Kingston are in need of revision; and,

WHEREAS, the City Council of the City of Kingston deems it to be in the best interest of the City to adopt new Personnel Rules and Regulations,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KINGSTON THAT:

Section 1. Personnel Rules and Regulations Adopted. Personnel Rules and Regulations attached hereto as Exhibit A are hereby adopted in their entirety.

Section 2. Ordinances Repealed. All ordinances inconsistent with this ordinance and the rules and regulations hereby adopted are repealed to the extent of any such conflict.

Section 3. Severability Clause. The invalidity of any section, subsection, paragraph, sentence or clause in the Personnel Rules and Regulations of the City of Kingston shall not affect the validity of any other portion of said Rules and Regulations sand only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 4. Date of Effect. This ordinance shall take effect ~~from~~ and after its final passage, the public welfare requiring it.



Mayor

ATTEST.



City Clerk

Passed First Reading: November 14, 2023

Passed Second Reading: December 12, 2023

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Section #:	Section 1	
Approval Date:	December 12, 2023	
Revision Date:		Policy 1.1

A. PURPOSE

The main purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees fostered by a systematic application of good procedures in personnel administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information, or any other basis protected by law.

All Employees are At-Will

These policies are not part of a contract and no employee has any contractual/property rights to the matters set forth herein. This will serve as notice to all employees that the employment relationship may be terminated at any time with or without cause, as long as the reason for termination is not unlawful. For purpose of this document and the City of Kingston being an at-will employer: **All employees are "at-will" and the city is an "at-will" employer under Tennessee law except otherwise provided by the Charter.** The city reserves the right to change any and all such policies, practices, and procedures in whole or in part at any time, with or without notice to employees.

These personnel regulations shall be made available to all employees. Employees will receive a copy of the regulations upon employment. Any employee who desires to review the department copy or request an electronic copy may contact Human Resources.

Non-Discrimination

Title VI requires that no person shall on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance (i.e., grant funds). The City of Kingston complies with all local, state and federal laws that protect employees from discrimination.

Title VII

It is the City of Kingston policy not to discriminate against any employee or applicant for employment or during the course of employment due to race, color, religion, age, sex, national origin or ancestry, marital status, veteran's status, or ability in accordance with applicable federal, state, and local law. If an employee believes that he or she has been involved in any incident that was discriminatory, he or she should report the incident immediately to management.

B. COVERAGE

These rules and regulations shall cover all employees in the city service unless specifically exempt by this document, the city charter, and/or the ordinances of the municipality. Regular part-time, temporary full time and temporary part-time employees are subject to all regulations but may not be eligible for benefits such as: health coverage, leave accrual, holiday pay, or retirement benefits.

All municipal government offices and positions are divided into the classified service and the exempt service. The classified service shall include all full-time and part-time positions in the city's service unless specifically placed in the exempt service listed below:

1. Elected Officials;
2. City Manager;
3. Members of appointed boards and commissions;
4. Consultants, advisors, and legal counsel rendering temporary professional service;
5. City Attorney;
6. Independent contractors;
7. City Judge

Some policies, such as anti-harassment policies and other policies required by state or federal law, apply to all employees and officers of the municipalities.

C. ADMINISTRATION

These rules will be administered by the appropriate administrative authority, generally the City Manager who falls under the direction of the City Council and in conformity with regulations establishing a personnel system. Department Heads and supervisors are responsible for the administration and enforcement of the personnel regulations for employees in their respective areas.

Human Resources responsibility and functions regarding the administration of the personnel regulations shall include, but not be limited to, the development and presentation of personnel regulations and recommended amendments, updates, revisions, and additions. The Human Resource department will also provide technical assistance to Department Heads and supervisors on the interpretation and application of the personnel regulations.

If any chapter or section of these regulations is found to be in conflict with Federal, State or city laws and regulations, or court decision, that chapter or section will continue in effect only to the extent permitted by such law, regulation or court decision. If any chapter or section of these regulations is or becomes invalid or unenforceable, such invalidity or unenforceable nature will not affect or impair any other chapter or section of these regulations. The City of Kingston follows all applicable laws.

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Section #:	Section 2	
Approval Date:	<u>December 12, 2023</u>	
Revision Date:		Policy 2.1

A. PURPOSE

The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each employment class. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the local government service.

B. COMPOSITION OF THE CLASSIFICATION PLAN

The classification plan may consist of:

1. a grouping of classes of positions that are approximately equal in difficulty and responsibility that call for the same general qualifications and that can be equitably compensated within the same range of pay under similar working conditions;
2. class titles descriptive of the work of the class;
3. written specifications for each class of positions; and
4. physical standards for performance of the duties of the position

C. USE OF CLASS TITLES

Class titles are to be used in all personnel, accounting, budget appropriation, and financial records of the city. No person will be appointed or employed in a city service position under a title not included in the classification plan.

D. USE OF JOB DESCRIPTIONS

Job descriptions are a mechanism of communicating goals, objectives, values, and expectations between all echelons of the City's hierarchy. The job descriptions will contain a general description of the position, essential functions, and additional duties of the job. It should be noted that these elements listed are not entirely inclusive or descriptive of all duties.

The job description will also contain minimum training and qualifications, and Americans with Disabilities Act (ADA) elements and standards required to perform essential job functions. The minimum qualification standards on job descriptions should serve as norms for applicants coming into the job setting and should also serve as a basis for performance indicators in meeting the expectations of the city of each employment position.

E. USE OF THE CLASSIFICATION PLAN

The classification plan may be used:

1. as a guide in recruiting and examining candidates for employment;

2. in determining lines of promotion and developing employee training programs;
3. in determining salaries to be paid for various types of work;
4. in determining personal service items in departmental budgets, and/or
5. in providing uniform job terminology understandable by all city officers and employees and by the general public.

F. ADMINISTRATION OF THE CLASSIFICATION PLAN

The City Manager or designee is charged with maintaining the classification plan of the city so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the City Manager or designee to examine the nature of the position classes, recommend to the City Council such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions, and periodically review the entire classification plan and recommend to the City Council appropriate changes in allocations or in the classification plan itself.

G. ALLOCATION OF POSITIONS

Whenever a new position is established or duties of an old position change, department heads will submit in writing a comprehensive job description listing in detail the duties of such a position. The City Manager and human resources will investigate the actual or suggested duties and, if viable, establish a new class.

H. REQUEST FOR RECLASSIFICATION

A Department Head may submit a request to the Human Resources Manager if he/she considers a position in his/her department to be improperly classified. If the duties of a position have substantially changed or a new position is established, a new job description may be required. In the absence of a Human Resource Clerk this request should be turned into the City Manager.

J. TYPES OF EMPLOYEES

Regular Full-time Employee- A regular full-time employee is an employee who is regularly scheduled to work a minimum of 40 hours per week, may be paid a salary and, is subject to all conditions of employment, and receives all benefits offered by the city unless specifically excluded by the city charter, code, or ordinance.

Regular Part-time Employee- A regular part-time employee is an employee who works part-time hours on a regular basis and works fewer than thirty (30) hours per week. Regular part-time employees are not eligible for city benefits (accrued leave, holiday pay or city benefits) unless specified by law.

**Will be paid at time and one half their regular hourly rate for all hours worked on a holiday*

Temporary Full-time Employee- A temporary full-time employee is an employee who works six (6) months or fewer per calendar year and who is paid on a per day or per hour basis. Following completion of six (6) consecutive months of employment, if the employee is not hired in a regular full-time capacity, employment may terminate. A temporary employee may not be subject to all conditions of employment, but shall be fully capable of performing the assigned duties and will receive no benefits except what is required by law. Individuals who are classified as temporary employees and are hired to fill a regular full-time or part-time position shall begin to accrue benefits on the effective date of regular appointment.

Temporary Part-time Employee-a temporary regular part-time employee is an employee who works fewer than thirty (30) hours per week. Temporary employees may not work more than six consecutive (6) months per year.

Police Reserve-Reserve officers are volunteers appointed by the Police Chief. Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy, if applicable.

Volunteer Firefighters- Volunteer firefighters are appointed by the Fire Chief when necessary. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighters Insurance Coverage Policy, if applicable.

Volunteer Employee/ Volunteer Organizations- A volunteer and/or volunteer organization is an individual and/or organization who works for the city for no compensation. All volunteers must complete the application process as set out in Section 3.1. Volunteers will be provided an orientation and training for the specific task that will be assigned.

This orientation will provide a clear understanding of what the volunteer is, and is not, authorized to do; and who to contact if questions or concerns arise. Volunteers (other than auxiliary police and volunteer firefighters) are not covered for any medical coverage if injured in the scope of the volunteer assignment. Volunteers will be required to sign a release clarifying that the volunteer understands there is no remedy or avenue of recovery (other than a tort action against the city or other person) if they are injured while volunteering. PEPartners does include volunteers as covered persons under its liability agreement. It shall be clear that if volunteers use their personal vehicle in a volunteer capacity that, generally, the insurance follows the vehicle, if anyone uses his/her own vehicle, his/her auto liability policy would be exhausted before the city's secondary coverage is accessible.

TCA 50-9-103 (16) Drug Free Workplace Programs

A. "Safety-sensitive position" means a position involving a safety-sensitive function pursuant to regulations governing drug or alcohol testing adopted by the United States department of transportation. For drug-free workplaces, the commissioner is authorized, with the approval of the advisory council on workers' compensation, to promulgate rules expanding the scope of safety-sensitive position to cases where impairment may present a clear and present risk to co-workers or other persons;

B. "Safety-sensitive position" means, with respect to any employer, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations or work with controlled substances; or a position in which a momentary lapse in attention could result in injury or death to another person; and

The City of Kingston considers the following classifications as being "Safety Sensitive"

- Police Department Personnel
- Fire Department Personnel
- City/KWD Personnel operating machinery including regular use of city owned vehicles
- City/KWD Personnel tasked with supervision of inmate labor

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Section #:	Section 3	
Approval Date:	December 12, 2023	
Revision Date:		Policy 3.1

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 and resumes may be accepted at any time and will remain on file in the City in accordance with the MTAS retention policy

The City of Kingston exercises a policy of fairness to every person who applies for employment. The Human Resources Manager will ensure reasonable accommodations in the application process for applicants with disabilities making a request for such accommodations.

Job Announcements

Department Heads who need to fill a job opening should contact the Human Resource Department to begin the recruitment process. The Human Resources will work directly with the Department Heads to facilitate the process from recruiting to onboarding and orientation as outlined below.

MANDATORY HIRING PROCESS FOR ALL DEPARTMENTS

1. Notify HR of vacancy	Department Head
2. Review / confirm job description	Department Head / HR
3. Post vacancy	HR
4. Collect applications	HR
5. Screen applications for minimum qualifications	HR
6. Select applicants for interviews	Department Head
7. Schedule interviews	HR
8. Conduct interviews	Department Head / HR
9. Select applicants for follow-up interviews (if necessary)	Department Head
10. Schedule follow-up interviews (if necessary)	HR
11. Conduct follow-up interviews (if necessary)	Department Head / HR
12. Select finalist	Department Head
13. Complete pre-employment checklist	HR
14. Present recommendation of finalist and completed pre-employment checklist to the City Manager for approval	Department Head
15. Conduct new hire orientation	HR

- **This process will be mandatory for all Departments.**
- **Finalists who didn't follow this process may be ruled ineligible for hire.**
- **Any deviation from this process due to extenuating circumstances must be approved by the City Manager in advance, after consultation with HR.**

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 test, 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 test, 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:
 - a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated; or
 - b. 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.

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, prospective employees may 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 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-hire)

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 including drug screening 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 of Kingston.

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 employee.

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.
3. are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

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, the Human Resource Department should be contacted, who will facilitate the process for one of 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.
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, the employee's salary shall be reduced accordingly.

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

5. **Demotion** - A demotion is a voluntary or involuntary assignment of an employee from one position to another that has a lower maximum pay rate, rank, and/or responsibility that could result in a reduction of pay.

Probationary Period-Every regular employee shall serve a probationary period after initial appointment, promotion, or demotion. The minimum probationary period is six (6) months for all classes. The probationary period may be extended an additional six (6) months at the discretion of the department head. The probationary period shall be regarded as an integral part of the selection and evaluation process and supervisors shall inform employees of the evaluation of their performance during the probationary period. This period of employment shall be utilized for closely observing the employee's work and for obtaining the most effective adjustment of an employee in the position. Employment during a probationary period following initial appointment is at will and may be terminated for any or no reason not specifically prohibited by law. Employees serving a probationary period following promotion or demotion may be removed from the position or from employment for failing to meet the needs and expected performance standards of the position. Employees in the initial probationary period do not have access to the grievance procedure. The status of the appointment shall not be changed from probationary to regular until a certification is made by the head of the department and approved by the City Manager that the employee's services are satisfactory, regardless of the time served.

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 necessary paperwork provided by the Human Resources Manager before beginning work.

New employees are required to attend a new employee orientation. At this orientation, employees will be provided with relevant documentation which may include:

1. City organization chart and department function
2. Map of the city
3. Key terms unique to the city
4. Copy of policy handbook and other city pamphlets
5. Benefit handout
6. Copies of performance evaluation forms, dates and procedures
7. List of on-the-job training opportunities and career ladders
8. Detailed outline of emergency and accident-prevention procedures
9. Telephone numbers and locations of key personnel and operations
10. Safety requirements and accident procedures

L. MOONLIGHTING/OUTSIDE EMPLOYMENT

"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 notify their department head.

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.

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

All employees, must utilize the current city approved time management system to request leave to cover absence from work.

Unless there are emergency factors involved, leave is to be requested at least 24 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 or excessively tardy will be subject to disciplinary action up to and including termination of employment.

O. TIME REPORTING

All employees, must utilize the current city approved time management system. 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 or excessively tardy will be subject to disciplinary action up to and including termination of employment.

In recording working time under the FLSA, infrequent and insignificant periods of time beyond the scheduled working hours, which cannot as a practical matter be precisely recorded for payroll purposes, may be disregarded. The courts have held that such periods of time are de minimis (insignificant). This rule applies only where there are uncertain and indefinite periods of time involved, a few seconds or minutes in duration, and where the failure to count such time is justified by industrial realities.

P. MEAL PERIOD & BREAKS

A meal period of 30 minutes shall be provided to all full-time employees except in cases of emergency. The meal period shall be deducted from the number of regular hours scheduled for an employee's normal workday. The duration of the meal period shall be determined by the Department Head with the approval of the City Manager and in accordance with all provisions under the FLSA. Federal law does not require that employees be given any particular rest breaks or breaks of any particular duration. The FLSA requires that the employer pay for breaks of 20 minutes or less and for all breaks and lunch periods during which the employee must remain at the work station and/or perform some duties. However, when no

services are required of the employee, lunch breaks can be unpaid. Fire and Police may have different meal period schedules.

Q. TELECOMMUTING

Telecommuting allows employees to work at home, or in a separate location for all or part of their workweek. The City of Kingston considers telecommuting to be a viable, flexible work option when both the employee and the job are suited to such an arrangement. Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a companywide benefit, and it in no way changes the terms and conditions of employment with the City. Temporary telecommuting arrangements may be approved on as-needed basis only, with no expectation of ongoing continuance. All informal telecommuting arrangements are made on a case-by-case basis, focusing first on the business needs of the city and are only authorized by the City Manager.

R. NEPOTISM POLICY

No person shall be employed by the City of Kingston who is related to any member of the City Council or the City Manager. In addition, no relative of a Department Head shall be employed in that department.

Any other potential inter-departmental relation must be approved by the City Manager prior to an offer of employment being extended.

Any employee hired who failed to disclose a prohibited or inter-departmental relation shall be subject to immediate termination.

It is the responsibility of the employees to immediately disclose to their department heads and Human Resources of any relationship.

Any current employee who is related to any newly elected City Council member or newly appointed City Manager is exempt from this policy and may continue employment at the City of Kingston.

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Head and City Manager. When a conflict or potential conflict arises due to the relationship affecting employment, the city reserves the right to make any and all employment decisions in the best interest of the City.

S. PERSONNEL RECORDS

Personnel records for each employee are kept on file and maintained by the Human Resource Department. 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 Human Resources.

Human Resources also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. Human Resources 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 Human Resources 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.

T. COLLECTION, RETENTION, AND USE OF PERSONAL INFORMATION

The city will strictly follow the requirements of equal employment opportunity laws regarding information collection concerning race, color, national origin, gender, religion, age and disabilities. With these restrictions in mind, the city will gather such information about job applicants or employees as determined by the Human Resource Manager and the laws governing such records.

The following basic principles will be applied in collecting and retaining personal information:

1. The Human Resources may maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by the Human Resource Manager.
2. Each department head and/or designee may maintain a file on each employee in his/her charge, including performance evaluations, attendance records, notes, memos, letters or other information related to the employee's salary history.
3. Payroll data may be kept separately from the personnel file and the departmental file, although both may include information about the employee's salary history.
4. Supervisors may keep separate files on their subordinates. Only information regarding employee performance may be kept in these files. A supervisor's files should be transferred to Human Resources when an employee leaves the city.
5. Employee information may be collected from employees whenever possible, but the city may use outside sources for other information.

U. EMPLOYEES' ACCESS TO PERSONNEL RECORDS AND MANAGEMENT FILES

Under normal circumstances, employees may have access to personnel files. The basic guidelines for access are as follows:

Employees may review their personnel file. If the employee disagrees with any information found therein, the employee may place a written disagreement, which will be attached to the specific document, in the files.

An employee desiring to access the personnel file of another employee must follow the procedures for open records request.

V. EMPLOYEES' ACCESS PROCEDURES

When employees wish to see their personnel files, they must first make an oral or written request to Human Resources for an appointment to view the file. Human Resources will then notify the appropriate department head/supervisor of the request.

Employees must review the file in the presence of an appropriate representative. Employees may take notes and may request a copy of any of the file's contents on duplicating equipment subject to the city's policy on copy charges. Any question about the information's accuracy must be referred to the City Manager. Employees may submit a note of disagreement to the City Manager who will provide a form on which disagreements may be expressed.

W. DISCLOSURE OF EMPLOYEE RECORDS AND INFORMATION

The content of employee personnel files is open to public inspection; however, some personal information has been deemed confidential under state and federal law. Any request for information from an employee's personnel file must be immediately referred to the Human Resource Manager. Only the Human Resource Manager or the City Manager are authorized to disclose information about employees to outside inquirers. Before a file is made available for viewing, a copy shall be made, and the designated staff member shall redact any confidential information.

Police Department applicant and employment records may be exempt from public access pursuant to state law. All requests for applicant and employment records shall be reviewed by the City Manager and/or Chief of Police on a case-by-case basis. When a request is for a professional, business, or official purpose, and includes a request for personal information as defined by TCA 10-7-504(g), the Chief of Police (or Human Resources) must notify the officer prior to disclosure. The officer must be given a reasonable opportunity to be heard to oppose the release of the information. If the City Manager or Chief of Police decides not to disclose personal information, the requestor must be notified within two (2) business days from the request and the files shall be released with personal information redacted.

Confidential information shall only be disclosed under the following circumstances:

1. Properly identified and duly authorized law enforcement officials without a warrant when investigating allegations of illegal conduct by employees; and
2. Legally issued summonses or judicial orders, including subpoenas and search warrants; and
3. Other as legally allowed by state and federal law

Human Resources or designee will restrict disclosing personnel information to prospective employers as much as possible. In most cases, such disclosures will be limited to information about the dates of employment, title or position, job location, and salary or as permitted by law.

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Title of Policy:	COMPENSATION	<u>Pg 1-4</u>
Section #:	Section 4	
Approval Date:	<u>December 12, 2023</u>	
Revision Date:		Policy 4.1

A. PURPOSE

It shall be the policy of the City of Kingston to strictly adhere to the provisions of the United States Department of Labor's Fair Labor Standards Act.

B. PAYDAY / PAY PERIOD

All employees of the City of Kingston are paid biweekly. The pay received covers the full amount due for all work reported during the preceding pay period. If payday falls on a holiday employees will be paid on the previous work day.

All employees receive their pay through direct deposit. New employees will be required to furnish a completed direct deposit authorization form with a voided check (personal account) to the Payroll Department.

Employees should examine their pay record carefully when they receive them. Any questions or concerns should be brought to the immediate attention of their supervisor.

C. HOURLY RATES

Employees paid on an hourly rate basis are paid for all time actually worked. The City Council shall approve the budget for salaries. The City Manager will approve all pay increases. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

D. MINIMUM WAGES

In accordance with the FLSA, no employee shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

E. OVERTIME PAY

Non-Exempt Employees-Overtime work will be compensated according to the FLSA provisions at a rate of 1-1/2 times the employee's regular rate when the employee has already worked forty (40) hours in a work week. An employee must physically be working for a full forty-hour work week in order to be eligible for overtime. Sick leave, vacation leave, or holiday leave will not be counted as hours worked for the purpose of calculating overtime. Overtime work may also be paid with compensatory time (*See Policy 4.1 Section G*)

Generally, overtime work must be authorized by the Department Head. Time for employees required to return to duty shall begin when the employee reports for work and the employee shall be paid for at least a minimum of two hours of work.

Exempt Employees-See Flex-Time Policy (*See Policy 4.1 Section H*)

F. OVERTIME FOR FIRE DEPARTMENT

The partial exemption provisions of § 207(k) of the Fair Labor Standards Act has been adopted by the City of Kingston Fire Department. Overtime shall be defined as hours worked in excess of 106 hours in a fourteen (14) day work period for fire personnel assigned to a shift. Administrative Fire personnel who are paid hourly, will be paid overtime after 40 hours in a week.

Non-worked hours, such as vacation, sick, holiday, jury duty, etc., are not included for the purpose of computing overtime. Fire personnel assigned to a shift will be paid 16 hours with on-site free time between 10:00pm and 06:00am. This time is intended for sleep time. If a firefighter assigned to a shift is unable to have a minimum of 5 hours sleep time during this period, the firefighter will be paid for the full shift. Individual disturbances of sleep time for calls will be compensated at the rate of 1.5 times the regular rate of pay for a 2-hour minimum per call out. Any additional calls received prior to returning to quarters will be covered under the original 2-hour minimum.

Firefighters working on shift will be paid a minimum of 80 hours per pay period for hours worked if the full schedule is worked, and/or employee uses available leave within that pay period.

G. COMPENSATORY TIME

Non-exempt employees may be compensated with time off instead of overtime pay at the rate of one and one-half times (1 ½) the regular rate for hours worked in excess of forty (40) hours in a work week. Compensatory time must have the prior approval of the department head. The maximum number of compensatory hours which may be accrued for non-exempt employees is 120 hours. Employees who have accrued the maximum number of hours of compensatory time must be paid overtime wages for hours worked in excess of forty (40) hours. Compensatory time that is earned must be taken within a year of accrual. Department heads and supervisors will be responsible for maintaining a log of all employee's compensatory time, scheduling the use of the compensatory time, and require that compensatory time be used within a year of accrual.

The city manager may, under emergency situations, and for budgetary needs, allow accrual up to 240 hours of compensatory time for non-public safety employees, and up to 480 hours of compensatory time for public safety employees.

Non-exempt employee(s) will be paid for any compensatory time which is unused at the time employment is terminated based on the employee's regular rate at the time of termination. The City of Kingston reserves the right to cash out an employee's compensation time at any time during the employee's tenure. Records of employee compensatory balances for non-exempt employees will be maintained by human resources. Budget may require pay out all at one time.

Exempt employees-(*See Flex-Time Policy 4.1-Section H*)

H. FLEX-TIME

Exempt employees may earn flex time at a one hour earned per one hour worked basis for hours worked in excess of forty (40) hours in a work week. Flex time accrued must be taken as time away from work, and will not be cashed out. Exempt employees will be allowed to transfer "Flex-Time" to their "Sick-Time".

I. CALL-OUT PAY

When it becomes necessary for an employee to return to duty from off-duty hours due to an emergency all employees shall be paid according to the prevailing salary schedule. An employee called out to return from off-duty shall be guaranteed a minimum of two (2) hours pay when the actual work time is less than two (2) hours. Call back pay is paid at one and one-half times the regular rate of pay.

J. HOLIDAY PAY

To receive compensation for a holiday, employees eligible for holiday benefits must be in a pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday.

All regular full-time employees will receive (8) hours of holiday pay for each city recognized holiday.

Any hourly employee that works on a city approved holiday will be paid at time and one half their regular hourly rate for all hours worked on the holiday (excluding floating holidays) (See Section 6.1(B)).

K. EXIT PAY

Upon separation from the city, employees will be paid any working wages and unused compensatory time due them on the next payroll date. Upon voluntary separation from employment with appropriate notice, or layoff, separating employees will be paid out any accrued, unused vacation leave.

L. ON-CALL TIME

On-call service is necessary for the proper maintenance and functioning of local government services. It is the duty and responsibility of each on-call employee to be available by electronic communication at all times. When on-call, an employee must be in compliance with the City of Kingston's Substance Abuse Policy (See Policy 10.24) and have the ability and the means to respond within 30 minutes of notification. The Department Head or lead person will be responsible for determining which employees are designated for on-call. Any employee designated as 'on call' (applicable to departments as determined by the city manager in consultation with the department head) shall receive an additional eight (8) hours of Compensatory Time for the workweek in which they are designated.

**Note-Kingston Police Department on-call personnel received salary adjustments instead of receiving the additional on-call benefit.*

M. FIRE CALLS

Regular firefighters who answer fire calls when not on regular duty will be compensated at the rate of one and one-half (1-1/2) times their hourly wage.

N. PAYROLL DEDUCTIONS

By law the city is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay.

1. **Federal Income Tax:** Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to

keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.

2. **Social Security:** Social Security payments and deductions will be made according to the Social Security Act. Human Resources shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

In addition, the following deductions will be made when authorized by an employee:

3. **Others:** Other city-authorized deductions may be made from an employee's pay only with the employee's signed consent. An employer must have a signed authorization to deduct cost of lost equipment, uniforms, etc. from an employee's final paycheck. Deductions from employee pay cannot reduce the final earnings below the minimum wage, and must be made on a depreciated/prorated basis.

O. TRIP REIMBURSEMENT

All trips that involve reimbursement and/or city expense shall not be undertaken without prior approval of the City Manager. Mileage shall be reimbursed at the prevailing IRS approved rate per mile. Food reimbursement shall be a per diem based on rates detailed in the State of Tennessee's reimbursement policy. Receipts must be furnished for all hotel, motel and parking charges.

***Employees shall provide associated agendas and hotel accommodations indicating meals included

PERSONNEL POLICY MANUAL

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Amended by Ordinance 24-03-12-01, 24-10-08-01

A. HEALTH BENEFITS

The city recognizes that employee benefits are a critical component in career decisions. The city intends to provide a comprehensive benefits package that remains affordable and value based. The City of Kingston may change benefit offerings as health care reform evolves and will remain in compliance with all applicable laws.

B. ELIGIBILITY

Generally, Regular-full time employees are eligible for benefits which may include: medical coverage, dental coverage, vision coverage, and other voluntary products. Employees who average 30 or more hours per week may be eligible for insurance benefits. Temporary employees, Part-Time employees, Reserve employees and volunteers are not eligible for insurance.

Employees are responsible to list only dependents that are eligible for coverage as defined by the plan rules. If a covered dependent becomes ineligible/ eligible based on the plan rules or a change in law, it is the employee’s responsibility to notify human resources immediately. Employees must notify human resources of any changes in status within 30 days of the status change/ qualifying event. This includes: dependent status change, address changes, divorce, marriage, birth, adoption, reduction in work hours, or any other change that could affect benefit plan eligibility.

Eligible employees must enroll for coverage within 30 days of employment or a qualifying event excluding newly gained eligibility as provided for under the Affordable Care Act.

C. QUALIFYING EVENTS

Employees are responsible of notifying human resources if they experience any significant life event such as birth, marriage, divorce, legal separation, adoption, legal placement of a child, change of address, reduction in employee’s regularly scheduled work hours, or a dependent change in status (i.e., school status). Some events will allow you to make changes to your benefits including adding or dropping dependents or terminating / adding coverage. Employees should notify human resources within 30 days of experiencing a qualifying event. Failure to follow procedure may result in denial of coverage or denial in refund on premiums.

D. ANNUAL ENROLLMENT / TRANSFER PERIOD

Health plans, benefit designs, eligibility rules, and premiums are subject to change each year based on the previous year’s claims experience. Annual enrollment begins in October and any applicable changes take effect the following January.

E. HEALTH INSURANCE

The City of Kingston shall provide coverage under an insurance program approved by City Council for each eligible employee. Except as set out herein, the City shall also provide, at the employee's option, dependent coverage as defined by the insurance program. Upon the effective date of this policy, no dependent coverage will be offered if it is verified that an employee's spouse is enrolled in insurance through his or her employer. In the event that a spouse is only eligible for single coverage through their employer, any eligible children may be covered under the employee's policy. Any spouse or child(ren) currently covered by the City of Kingston will be exempt from this provision as long as their existing policy at the time of passage remains in effect. Neither employees nor their dependents shall be eligible for insurance benefits until the first day of the first month following one (1) full month of employment. Retirees who have twenty (20) years or more service will be given the opportunity to continue their coverage as long as they wish, or until they become Medicare eligible, and as long as they continue paying the monthly premium. The city will not be responsible for paying any portion of the premium for such continued coverage.

Should circumstances dictate terminating employment or benefits, the City will offer eligible employees and their dependents, and retirees the opportunity to extend their health insurance coverage under COBRA, but the City will not be responsible for any premium for coverage after termination of the employee and any portion of a prepaid premium shall be deducted from the employee's final pay.

F. DENTAL & VISION COVERAGE

Additional coverage such as dental, vision and wellness coverage may be available.

G. LIFE INSURANCE

The city offers basic life insurance to employees. The value of life insurance may be set as needed by the City Council.

H. RETIREMENT SYSTEM

The City of Kingston shall provide for all covered employees to be a member of the Tennessee Consolidated Retirement System.

I. UNEMPLOYMENT COMPENSATION

The State of Tennessee offers unemployment benefits through the Employment Security Division. Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work, or until his employer can recall him to work.

This coverage is authorized in the Tennessee Employment Security Law, which requires most types of employers with one or more employees to pay the cost of the insurance. Nothing is deducted from the employee's wages to pay for this coverage.

To find out more about Unemployment Compensation eligibility, contact the Tennessee Department of Labor and Workforce Development.

J. DEATH OF AN EMPLOYEE

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check and continue receiving the regular payroll check until all accrued leave time is used, including an

additional two weeks full pay. Further, his/her beneficiary shall be given complete assistance by Human Resources in settling pension, life, and hospital insurance benefits.

K. OCCUPATIONAL DISABILITY

An employee of the city who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury by the State Compensation Insurance Fund in accordance with the Tennessee Worker's Compensation Act. Worker's compensation pays an employee 66.67% of their average weekly salary once the employee has been disabled for more than seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury or illness. If the employee is disabled for fourteen (14) days or more, worker's compensation will pay the employee retroactively from the first full day of absence from work up to the return date to work. Employees receiving worker's compensation payments may supplement their pay with accrued paid leave.

All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Worker's Compensation Law. The City's Panel of Physicians must be used when an employee is unable to work due to an on-the-job injury or illness, a claim for worker's compensation benefits shall be given to the city's worker's compensation insurer (a list of the Panel of Physicians is available on the bulletin board in the lobby at City Hall). Payments received on behalf of the employee shall be forwarded directly to the employee.

At the employee's request, any accrued leave (sick or vacation) may be used during the first seven (7) days of disability. An employee using accrued leave for occupational disability shall be required to endorse any indemnity checks, on account of the occupational disability, to the city for the first seven (7) days of disability. Should the employee not have sufficient leave to cover the first seven (7) days, no pay shall be due the employee until temporary disability benefits begins. In no case shall an employee receive full pay and worker's compensation benefits simultaneously.

If an employee is expected to be away from work for less than six (6) months, all benefits will continue to be provided by the city, except those noted above and those which require employee contributions. An employee expected to be off more than six (6) months shall be placed on leave-without-pay after the sixth month and shall not receive any salary or city paid benefits, except those provided by worker's compensation law. No employee shall be considered unable to work due to an on-the-job injury until he/she presents a written diagnosis and expected length of disability from a physician stating fully all restrictions.

Employees shall immediately report any injury incurred in the course of their employment, however minor, to their immediate supervisor or department head, whichever is appropriate, and take such first aid or medical treatment as may be necessary. Any employee determined to have been able, but who fails to make such a report may not be eligible for occupational disability or injury leave and may be subject to disciplinary action for failure to report an accident or injury.

When an employee is injured on the job, the supervisor or department head, whichever is appropriate, **shall immediately file with Human Resources an accident report on the prescribed form. Human Resources will report to the City Workers' Compensation Insurance Company and notify the City Safety Committee.** At the end of this manual see appropriate forms:

- Employee's Choice of Physician;
- Employee Page w/Claim Details;
- Employer Page w/Claim Details; and
- Information Sheet to be completed and filed with Human Resources who file the insurance claim.

The Safety Committee shall then investigate the accident and submit a report to the City Manager, along with his/her recommendations for remedial action, and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify Human Resources, City Manager and the Safety Committee.

In the cases where occupational disability to an employee occurs and the employee has been reported as occupationally disabled for a period of thirty (30) calendar days, the department head shall review the progress of the case and make recommendations to Human Resources and the City Manager as he/she deems advisable.

In all cases of occupational disability, the responsibility of determining the character, degree and potential duration of an injury shall rest with the licensed, practicing medical doctor(s) from a panel of physicians approved by the City of Kingston. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the City Manager.

Before an employee is returned to full duty, the employee must be certified by the attending physician as capable of performing the essential functions of the job. The physician will be furnished a copy of the job description, a list of the essential job functions as determined by Human Resources, City Manager and the department head, and a form listing the required capabilities. The attending physician must complete the form provided by the Human Resources documenting the employee's ability to perform the essential job functions. The city reserves the right to obtain a second medical opinion from the physician of its choosing before a final decision is made and a return to light or full duty.

If an employee is unable to return to the position held at the time of the injury, the City of Kingston shall take reasonable steps to place the individual in a comparable position, if one is available, for which he/she is qualified and able to perform the essential functions, with or without a reasonable accommodation.

Upon reaching Maximum Medical Improvement under applicable Tennessee Workers' Compensation laws, the employee's medical condition shall be assessed as to the permanent medical restrictions and their ability to perform the essential duties of their normal work assignment. If the injured employee cannot return to his/her regular position, the department head in conjunction with the city manager shall attempt to find employment within the employee's department or within another department. Reasonable accommodation will be provided to qualified, disabled individuals unless the accommodation would pose an "undue hardship" on the city.

Should an employee be unable to return to full duty within one hundred twenty (120) days after the date of injury, or within one hundred sixty-five (165) days if the City Manager has approved the extended time, and no comparable position for which the employee is qualified is available, the employee may be subject to separation only if:

1. he/she cannot perform the essential functions of the job due to a disability that cannot be reasonably accommodated; or
2. the employee poses a direct threat to himself/herself or others

L. AMERICANS WITH DISABILITIES ACT

1. Purpose

The purpose of this policy is to provide a policy in compliance with 42 U.S.C. 12101 et. seq.: The Americans with Disabilities Act (ADA) as amended. The city is committed to the fair and equal employment of individuals with disabilities under the ADA. It is the city's policy to provide reasonable

accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the city.

The city prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

2. Eligibility

The ADA policy applies to any qualified individual with a disability who can perform the essential functions of the job with, or without, a reasonable accommodation.

Disability

“Disability” refers to a physical or mental impairment that substantially limits one or more major life activities. A “qualified person with a disability” means an individual with a disability who has the requisite skills, experience, and education for the job in question, and who can perform the essential functions of the job with or without reasonable accommodation.

3. Reasonable Accommodation

The city will seek to provide a reasonable accommodation for a known disability or at the request of an individual with a disability. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job and does not place undue hardship on the city.

4. Essential Job Functions

For each position, the job description typically will identify essential job functions. The city manager, or designee generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An applicant’s or employee’s questions about a job’s requirements should be directed to the city manager, or designee.

5. Requesting a Reasonable Accommodation

An applicant or employee with a disability is responsible for requesting an accommodation from the city manager, or his/her designee, or the supervisor, and engaging in an informal process to clarify what the applicant or employee needs, and to identify possible accommodations. The city will inform the applicant or employee of his/her rights under the ADA and document the interactive process discussions.

An applicant or employee may be required to provide documentation from an appropriate professional, such as a doctor or a rehabilitation counsellor, concerning the applicant's disability and functional limitations. If an applicant or employee disagrees with the result of the medical examination, the applicant or employee may request a second examination performed and paid for by the applicant or employee. In the event of a disagreement in the two previous medical opinions, a third opinion may be obtained with both parties sharing the cost of the examination.

The applicant or employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. Typically, the city manager, or designee will work with the applicant or employee to identify possible reasonable accommodations and to assess the effectiveness of each in

allowing the applicant or employee to complete the hiring process or perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the city and the individual. While an individual's preference will be considered, the city is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the city. The city manager, or designee will provide notification in writing of denial based on undue hardship. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility or department at which the accommodation is to be made, the number of employees at the facility or in the department, the total number of employees of the organization, and the type of operation.

6. Safety

All employees are expected to comply with all safety procedures. The city will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the city manager, or designee in consultation with the department head, and will be based on factual, objective evidence. A written copy of the determination will be given to the applicant or employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

7. Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

8. Complaint Procedure

It is the policy of the city to prohibit any harassment of, or discriminatory treatment of, applicants or employees on the basis of a disability for requesting a reasonable accommodation. If an individual feels he or she has been subject to such treatment or has witnessed such treatment, the situation may be reported to any supervisory employee of the city, including the city manager.

The city's policy prohibits retaliation against an applicant or employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an applicant or employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an applicant or employee feels he or she has been retaliated against, the situation may be reported to any supervisory employee of the city, including but not limited to the city manager and elected officials.

PERSONNEL POLICY MANUAL

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The City’s benefits and leave policies have been designed with the health and well-being of its employees in mind. While leave privileges add to the benefit and compensation package of employees, they also add intangible quality of life benefits which help attract and retain a desirable workforce.

A. EMPLOYEE LEAVE REQUEST

Employee leave must be submitted through the time keeping software prior to the commencement of such leave. Exceptions to this policy include only emergencies and unexpected sick leave, in which case the employee must notify his/her immediate supervisor who in turn shall, in a timely manner, report the leave taken following the aforementioned process.

Except as noted above, it shall be the responsibility of the employee to submit his/her request for leave to their respective department head/supervisor.

When someone takes leave (of any kind) those hours are NOT counted as hours worked for purposes of calculating over time liability.

B. LEGAL / PAID HOLIDAYS

The following days are considered paid holidays for all full-time employees. Some employees may be required to work on holidays to maintain city operations. The paid holiday schedule is subject to change on an annual basis.

New Year’s Day	January 1 st
Floating Holiday	Presidents Day or Martin Luther King Day
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	First Monday in September
Veterans Day	November 11 th
Thanksgiving Holiday	Fourth Thursday and Friday in November
Christmas Holiday	December 24 th & 25 th
Employee’s Birthday	Must be used within current year

**Holidays that fall on Sunday are typically observed the following Monday by those employees working Monday through Friday; holidays that fall on Saturday are observed on Friday by those employees.

C. VACATION LEAVE

Vacation leave will be granted to full-time employees but may not be taken until the employee has completed six months of employment unless authorized by the department head and city manager. Vacation leave is to be taken following the period of time in which it is earned. Up to two year’s vacation accruals

may be carried forward into the next year. Upon reaching vacation accrual limits, excess time will be automatically transferred to sick time.

Vacation time will be calculated according to the following schedule:

Years of Service	Days Earned Per Month	Days Earned Per Year
0 to 1	.42 Days (3.3 hours) *AOD=3.35	5 Days (40 hours)
1 to 5	1 Day (8 hours)	12 Days (288 hours)
5 to 10	1.25 Days (10 hours)	15 Days (360 hours)
10 to 20	1.67 Days (13.34 hours)	20 Days (480 hours)
20 and over	2.08 Days (16.67 hours)	25 Days (600 hours)
30 and over	2.5 Days (20 hours)	30 Days (720 hours)

For leave purposes, the service an individual has to his/her credit includes all time spent as a full-time, or regular part time employee of the municipality.

Vacations will be scheduled in advance for the mutual convenience of the employee and the city government so proper adjustments can be made in the work schedules. Department heads preparing vacation schedules will give choice of dates based on operational needs and availability of the personnel in their departments, and no employee may begin his/her annual leave until his/her request has been approved by the department head.

All full-time employees will be required to take a minimum of forty (40) hours of accrued vacation time during each calendar year following their first year of service

An employee who is voluntarily separated from city employment with appropriate notice, or laid off due to lack of work, shall be paid for his/her unused vacation leave provided they completed at least six months of satisfactory service upon separation. The separation date shall coincide with last date of pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. When an employee is on "leave without pay" for 15 working days during any calendar month, no annual leave accumulates. Employees may transfer earned leave to another employee for serious medical conditions.

D. SICK LEAVE

Each regular full-time employee will accrue sick leave at the rate of eight (8) hours per month.

Generally, employees become eligible to use sick leave when:

1. Employees are incapacitated by sickness or non-job-related injury, for medical, dental, or optical diagnosis and treatment.

2. For necessary care and attendance of a member of the employee's immediate family (Spouse, Parents, Children, Siblings & Grandparents) when approved by the City Manager, or as used within Family and Medical Leave.
3. Employees may jeopardize the health of others because they have been exposed to contagious disease, requiring notice from a qualified doctor.
4. Sick leave is to be taken following the period of time in which it is earned.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before approving sick leave. Any absence may require a doctor's certificate to return to work (if, in the opinion of the department head or City Manager, such action is deemed appropriate.)

Each hour deducted from an employee's sick leave accumulation shall be for a regular work hour and shall not include holidays and scheduled off days. Employees claiming sick leave while on annual leave may be required to support their claim by a doctor's statement. When an employee is on "leave without pay" for 15 days or more during any calendar month, no sick leave accumulates.

An employee who is enrolled in the city retirement plan (TCRS), at the time of employment termination (i.e., voluntary, involuntary, retirement) with an unused sick leave balance will receive credit through TCRS at a rate of 20 days=one additional month of service time. No accrued sick time will be paid to employees at the end of employment.

(Current employees at the time of this policy adoption will have the option to opt out of this portion of the new policy (6.1-Section D) within thirty(30) days of its passage and request to be "grandfathered" by the 2017 policy which states: An employee who is vested under the city retirement plan, at the time of retirement, will receive compensation for unused sick leave at his/her regular rate of pay calculated at one hour of pay for every two hours of sick leave accumulated up to a maximum of 960 hours earned (480 hours paid). Such compensation shall follow regular pay periods until compensation is complete.

E. SPECIAL LEAVE WITHOUT PAY (See appendix for form)

After employees have exhausted their accrued paid leave, leave without pay may be granted at the discretion of the City Manager as a reasonable accommodation to qualified individuals with a disability, serious employee health condition or injuries or the serious health conditions of a member of the employee's immediate family.

Employees may also be placed on leave without pay if unable to perform his/her job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a healthcare provider they shall be given preference for employment in a position for which they are qualified, with the approval of the City Manager.

If the employee exhausts all of his/her paid leave and still needs time off for personal health reasons, he/she may apply for a leave of absence without pay for up to three (3) months if he/she is a regular full time employee. The request for leave must be given to Human Resources at least thirty (30) days prior to the start of the requested leave unless the leave is an emergency.

The City Manager may or may not approve the request for a leave of absence without pay. The decision is at his/her discretion, unless the leave qualifies under the Family Medical Leave Act, the Tennessee Maternity-Paternity Leave Act, the Americans with Disabilities Act, or Military Leave. Some of the matters

considered in approving the request are the employee's length of service, employment record and the reason for the absence.

While an employee might originally request a leave of absence without pay for a period of three (3) months, it is possible that extension may be granted. However, the total leave and extensions for any one cause cannot exceed one (1) year.

Leave without pay may be granted only when the employee has used all his/her accrued available paid leave. Employees who receive worker's compensation payments are not required to use accrued paid leave or compensatory time for the balance of the wages not paid by worker's compensation. Employees will not be eligible for accrual of paid leave while he/she is on an approved unpaid leave of absence.

Employees granted leave without pay in excess of three (3) months will be notified that:

No firm assurance can be given that an employee will be reinstated or if he/she will return to the same position upon expiration of the leave in the event that it is in the best interests of the City to reassign the employee to another position during his/her absence. This provision does not apply to employees on approved FMLA leave.

An employee may be laid off during their absence if there is a reduction in force which would have occurred during the period of unpaid leave affecting his/her position. If this should occur, the employee shall be notified.

Employees must notify Human Resources of the anticipated date of return to work prior to that date. When an employee returns from an approved leave of absence without pay, he/she may be placed in his/her previous or a similar position, if available. If the same or similar position is not available, the employee may receive preference for employment in any available position for which he/she is qualified.

If the employee fails to return to work at the conclusion of the leave of absence without pay, the employee will be subject to disciplinary action. If the employee is unable to return to work, he/she is responsible for requesting an extension, in advance, from the City Manager, or designee.

There may be changes to the employee benefits during a leave of absence without pay. Employee should contact Human Resources to determine changes to which he/she may be subject.

Maintenance of Benefits during Leave of Absence without pay

The city is not required to maintain employee benefits coverage while the employee is on leave of absence without pay that is not protected under the Family Medical Leave Act, Tennessee Maternity-Paternity Leave Act, or applicable Military Leave. In cases where the leave of absence without pay would trigger a qualifying event (such as a termination of coverage) due to a reduction in work hours, COBRA will be offered.

F. SPECIAL LEAVE WITH PAY (See Appendix for Form)

Special leave is defined as time off from regular work, which can be granted with or without pay at the direction of the City Manager in consultation with the employee's department head. However, such leave with pay that exceeds three (3) consecutive work days or more than ten (10) cumulative days within any calendar year must receive review and re-approval of the City Manager, except for professional development meetings.

G. BEREAVEMENT LEAVE

An employee requesting a leave of absence to attend the funeral of an immediate family member will generally receive time off with pay for up to three regularly scheduled work days. Arrangements for additional time off without pay as a personal leave of absence must be approved by the city manager. The city understands that a death in the family can be a difficult time, and we will make reasonable efforts to accommodate your leave request under these circumstances.

For the purposes of this policy, immediate family is defined as the employee's: spouse, children, step children, parents, step parents, parents-in-law, siblings, grandchildren and grandparents. Exceptions to the above listing must be agreed with the city manager.

H. LEAVE SHARING/DONATION POLICYPolicy Statement:

The City of Kingston recognizes that employees may have a family medical emergency resulting in a need for additional time off in excess of their available sick/vacation/comp time. To address this need, all benefit-eligible employees will be allowed to donate sick/vacation/comp time from their unused balance to their co-workers in the need of sick/vacation/comp time for a medical emergency or for bereavement, in accordance with the policy outlined below. This policy is strictly voluntary.

Eligibility

Employees must be continuously employed with the City of Kingston for a minimum of 11 months to be eligible to donate and/or receive donated sick/vacation/comp time.

Guidelines

Employees who would like to make a request to receive donated sick/vacation/comp time from their co-workers must have a situation that is a medical emergency or is a bereavement, as defined below.

o Medical Emergency is defined as a medical condition of the employee or an immediate family member that will require the prolonged/extended absence of the employee from duty & will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available. Medical documentation may be required. Conditions that are short-term in nature including, but not limited to, common illnesses and injuries such as influenza, measles, broken bones, strained ligaments and the like are not considered medical emergencies.

o Bereavement is defined as a period of bereavement for a member of the employee's immediate family.

Immediate family is defined as spouse, child, (including stepchild), parent (including stepparent), sister, brother, grandparents (including step-grandparents), mother or father-in-law, sister or brother in-law.

Donation of Sick/Vacation/Comp Time

- The donation of sick/vacation/comp time is strictly voluntary.
- An employee may donate sick/vacation/comp time to a "Leave Bank" for use by eligible recipients.
- Recipient identity will not be disclosed to donating employees
- The donation of sick/vacation/comp time is on an hourly basis

- The minimum number of sick/vacation/comp hours that an eligible employee may donate is 8 hours.
- The maximum number of sick/vacation/comp hours an eligible employee may donate in one calendar year is 72 hours. In no circumstance may the donating employee leave less than 80 hours in his/her combined sick/vacation/comp balances.
- Employees cannot borrow against future sick/vacation/comp time to donate.
- Employees who are currently on approved leave of absence cannot donate sick/vacation/comp time.
- Donor employees may not claim an expense, a tax deduction, or a charitable contribution for any of the leave donated under this policy.
- Employees may donate sick/vacation/comp leave at any time.

Requesting Donated Sick/Vacation/Comp Time

Employees who would like to request donated sick/vacation/comp time are required to complete a "Leave: Donation Request" form and submit it to human resources. This form requires a certification from the employee's health care provider. "Health care provider" for this form is as that term is defined by FMLA regulation 29 C.F.R. 825.125.

Requests for donation of sick/vacation/comp time must be approved by the City Manager, the employee's Department Head and the Human Resource Manager.

If the recipient employee has available sick/vacation/comp time in his/her balance, this time must be used prior to any donated sick/vacation/comp time. Donated sick/vacation/comp time may only be used for time off related to the approved request.

Should the requestor return to work prior to the leave payout being utilized, the remaining leave payout will be credited back to the sick/vacation leave bank.

Employees receiving voluntary donated sick/vacation/comp leave should be aware that those hours will count toward their total annual Family and Medical Leave entitlement, provided the employee has been approved for FMLA. Please note that approval for FMLA does not guarantee approval for donated sick/vacation/comp leave & vice versa. Shared leave cannot be used to extend FMLA benefits if total FMLA hours have been exhausted by the applicant.

To be eligible to receive donated sick/vacation/comp time from the "Leave Bank", the requesting employee must not have been counseled for abuse of the sick leave policy in the last 12 months.

Employees who receive donated sick/vacation/comp time may receive no more than 360 hours within a rolling 12-month period.

Recipient will continue to have the employee portion of benefit premiums & contributions deducted from their paycheck when the only source of income is through the "Leave Bank".

Before an employee is eligible to receive additional donated leave after having received donated leave for a previous occasion, he/she must have returned to work with the City and have worked a minimum of 12 consecutive months.

Employees receiving workers' compensation, short-term disability, or long-term disability are not eligible to use the sick/vacation/comp "Leave Bank"

Withdrawals from the sick/vacation/comp "Leave Bank" may only be taken in increments of full days.

Donated sick/vacation/comp hours are not lent, but are granted to the eligible employees

Recipients of donated sick/vacation/comp time will receive paid leave at his/her normal rate of pay.

Employees receiving donated sick/vacation/comp time for the purpose of bereavement will be limited to a maximum of two weeks for this purpose.

All paid leave granted to the recipient employee is considered wages and is subject to appropriate tax withholding.

The following provisions apply:

- Requests for donated sick/vacation/comp leave will be reduced or denied if there are not sufficient hours available in the "Leave Bank" to grant the request.
- Donated sick/vacation/comp leave will be awarded without regard to race, religion, color, sex, marital status, national origin, ancestry, disability, political affiliation, age, or sexual orientation.
- An employee's qualification for donated sick/vacation/comp leave from the "Leave Bank" does not prevent the employer from exercising its rights to terminate the employee consistent with applicable federal/state law
- This program may be amended from time to time without prior notice.

I. MILITARY/RESERVISTS LEAVE

Military Leave: Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active-duty orders. The employee's seniority, status and pay will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be sent.

The city will continue to pay the portions of the premiums they were responsible for while the service member was employed if the leave is for fewer than 31 days. For military leaves longer than 31 days the employee must pay up to 102% of cost of premiums due for such policy. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be sent.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more

than one (1) year for an injury/illness related to deployment. The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

Reservists Leave: Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days in any one (1) calendar year.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees will receive full compensation for a period of twenty (20) days of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the city the dates for training and travel time in advance. After the twenty (20) working days of full compensation, the city will not provide partial compensation to its employees while under competent orders. After the twenty (20) working days of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of (annual/vacation) leave for the purposes of not having to take leave without pay.

Active State Duty: Army/Air National Guard and TN State Guard, Civil Air Patrol

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

8-33-110 Unpaid leave for members of Tennessee army and air national guard, Tennessee state guard and civil air patrol. In addition to the leave of absence provided in 8-33-109, all officers and employees of this state, or any department or agency thereof, or of any county, municipality, school district, or other political subdivision, all other public employees of this state and all private sector employees who are members of the Tennessee army or air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation or impairment of

efficiency rating for all periods of service during which under competent orders they are engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

J. JURY SERVICE LEAVE

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the city during jury service.

K. FAMILY MEDICAL LEAVE ACT

Purpose

The purpose of this policy is to provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993. The policy also provides the changes to FMLA that come as part of the National Defense Authorization Acts as amended.

Eligibility

The Family and Medical leave policy is applicable to employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period, and work for an employer with 50 or more employees within a 75-mile radius of the worksite. Such employees are eligible for a maximum of 12-16 weeks leave under the act, depending upon eligibility circumstances. Special rules apply for husbands and wives employed by the same employer, for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis), and for local educational agencies. Individuals who are not covered include elected officials, political appointees, volunteers, independent contractors, and legal advisors.

FMLA Circumstances

Employees may be eligible for Family and Medical Leave for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member with a serious health condition as defined by the FMLA;
4. Medical leave when the employee is unable to work because of a serious health condition;
5. To care for an immediate family member as defined under the FMLA who is injured while on active duty if that injury renders the service member unfit for military duty;
6. To handle a "qualifying exigency" relating from an employee's spouse or child being called to active duty.

Paid / Unpaid Leave

Family Medical Leave (FML) may be paid or unpaid. If the employee has available paid leave, that leave will run concurrently with FML. If the employee does not have paid leave available, or he/she exhausts paid leave, while out of FML, the remainder of the approved FML will be unpaid. Employees on unpaid leave will not accrue paid leave if they are on unpaid leave for more than 15 days in a month.

The combination of paid leave and unpaid leave may not exceed the total allowable leave under the FMLA.

Guidelines

An eligible employee may take up to 12 weeks of FML in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one's self, a child, spouse, or parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible. Eligible employees may take up to 12 weeks of FML to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 weeks leave under FML to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a "serious injury or illness."

The "parent" as defined in the Family and Medical Leave Act, need not be the employee's biological parent, provided that the individual "stood in loco parentis" (acted as a parent), to the employee when the employee was a child. Benefits under FMLA are not extended to parents "in-law."

FMLA defines the term "spouse" to mean a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a same-sex marriage that was common law marriage. "Spouse" also includes a husband or wife in a marriage that was validly entered into outside of the United States if it could have been entered into in at least one state. No employer would be required to grant an eligible employee FML to care for an unmarried domestic partner.

"Son or daughter" is defined in part as one who is under age eighteen (18) or as an adult who is incapable of self-care because of a mental or physical disability. Medical leave may be taken for a biological child, as well as foster children, adopted children, step children or legal wards such as a niece, nephew or grandchild who the employee is raising.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment.
2. A period of incapacity of more than three consecutive calendar days that also involved treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity.
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider.
6. Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious injury or Illness for an Injured Service member is defined as a covered service member's injury or illness incurred in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

During period of unpaid FML, an employee may not accrue any additional seniority or similar employment benefits during the leave period in months in which they work fewer than 15 days; or any right, benefit, or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken leave.

Spouse / Same Employer

If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, or care for a parent, their aggregate leave under FMLA is limited to 12 weeks. If the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouses experience their own serious health condition, both employees are entitled to the full 12 weeks.

Right to Return to Work

On return from FML, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e., additional leave, light duty, job restructuring, etc.).

Notice and Scheduling

An eligible employee must provide the city at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen medical events.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was FMLA. Failure to provide notice of the need for FML may result in the leave not being designated as FML.

The city will, if necessary, provide the notice of employee FMLA rights in alternate formats.

Certification

The city reserves the right to verify an employee's request for FML. If employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the city may require that the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. Failure to submit proper certification may result in a delay of FML approval. If the city has a reason to question the original certification, the city may, at the city's expense, require a second opinion from a different health care provider chosen by the city. The health care provider may not be employed by the city on a regular basis. If a resolution of the conflict cannot be

obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

Payment for the second opinion shall be borne by the employee. Payment for the third shall be divided between the employee and the city. This certification must contain the date on which the serious health condition began; its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification will be treated as confidential and privileged information under HIPAA and the State's Public Records laws as appropriate.

An employee may be required to report periodically to the city the status and the intention of the employee to return to work. Before return is granted, employees who have taken unpaid leave under this policy may be required to furnish the city with a medical certification from the employee's health care provider that the employee is able to resume work.

Failure to provide certification in a timely manner may result in delay or denial of FMLA.

Reduced and Intermittent Leave

FMLA leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent leave is defined as the smallest increment the payroll system will accommodate. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the city's approval. The schedule must be mutually agreed upon by the employee and the city.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the city to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

Restoration

Employees who are granted leave under the FMLA policy will be reinstated to an equivalent of the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent highest paid workers, may be denied restoration.

Restoration may be denied to key employees if:

1. The city shows that such denial is necessary to prevent substantial and grievous economic injury to the city's operations;
2. The city notifies the employee that it intends to deny restoration on such basis at the time the city determines that such injury would occur; and
3. In any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

Employees voluntarily accepting a light duty assignment in lieu of continuing FML maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FML has passed.

Failure to Return to Work

According to the FMLA "if an employee is unable to or does not return to work at the end of twelve (12) weeks of FML, all entitlement and rights under the FMLA cease at that time; the employee is no longer entitled to any further restoration rights under the FMLA, and the employer is no longer required to maintain group health benefits pursuant to the FMLA."

Notification of Discharge

An employee may be discharged from employment at the end of the twelve (12) week entitlement period if the employee has not returned to work, has not supplied written notification of their intent to return to work or is unable to perform his/her job duties. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e., additional leave, light duty, job restructuring, etc.) prior to discharge.

The 12-Month FMLA Period

The 12-month period during which an employee is entitled to 12 workweeks of FML is measured as follows. An employee is entitled to 12-26 weeks of leave during the 12-month period after the leave begins. The next FML period will begin the first time the employee request FML after the completion of the previous 12-month period.

Denial of FMLA Leave

If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the city may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the city of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, the city may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not designated as FML.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the city may delay restoration until the employee submits the certification.

Employee Benefits While on FMLA

During periods of FML, the city will continue to provide health insurance benefits at the employee rate. If premiums are current, the city will maintain health insurance benefits during period of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee. The city is obligated to reinstate employment benefits upon an employee's return to work.

The city has the right to recover from the employee all health insurance premiums paid by the employer during the unpaid leave period if the employee fails to return to work after leave. In the event that an employee is unable to pay his/her portion of premiums during the time of unpaid FML, the city may deduct any unpaid premiums from the employee's pay upon return to work, subject to FLSA restrictions. Employees who fail to return to work because they are unable to perform the essential functions of their job, because of their own serious health condition, or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FML under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

Workers' Compensation While on FMLA

Workers' Compensation Injury/Illness generally meets the criteria for a serious health condition, therefore the workers' compensation absence and the FMLA leave entitlement will run concurrently.

L. VOTING LEAVE

Employees who are registered voters may receive reasonable time off to vote if they request such time off before 12 noon the day before the election. The supervisor may specify the hours during which the employee may be absent to vote, and the time off may not exceed three hours. No time off will be granted if the polls in the county where the employee is a resident are open three (3) or more hours before the employee is scheduled to begin work or if the polls close three (3) or more hours after the employee's work schedule ends.

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Section #:	Section 7	
Approval Date:	<u>December 12, 2023</u>	
Revision Date:		Policy 7.1

A. SEPARATIONS

All separations of employees from positions with the City of Kingston shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, disability, death, retirement, abolishment of position, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation on a depreciated/prorated basis, as long as the employee's final pay is not reduced below minimum wage.

1. RESIGNATION

In the event an employee decides to leave the municipal government's employ, a two (2) week notice should be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all city equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may also be considered a voluntary resignation by the department head or the City Manager. After voluntary resignation, an employee who returns to city employment will have his/her status of seniority, pay, leave, etc., begin at the same level as an initial employee beginning work for the first time.

2. LAY-OFF

The department head, upon approval from the City Manager may lay-off an employee in the city service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee. In the event that a lay-off becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and then length of service in determining retention.

- The duties performed by an employee laid-off may be assigned to other employees already working who hold positions in the appropriate class.
- Temporary employees shall be laid-off before regular employees.
- A laid-off employee who is reinstated as a city employee within 90 days from the date he/she was laid off will be reinstated with full benefits as if he/she had not been laid off.

3. DISMISSAL

All city employees not under an employment contract for a specified time period are employees-at-will of the city. The city reserves the right to discipline any employee at any time and for any reason, with or without cause, or for no reason at all, as allowed by law. There may be occasions the city takes disciplinary actions short of termination against an employee.

The types of disciplinary action options are:

- oral reprimand,
- written reprimand,
- suspension,
- demotion, and
- dismissal

Reasons for dismissal may include, BUT NOT BE LIMITED TO: misconduct, negligence, incompetence, insubordination, irresponsible behavior, unauthorized absences, falsification of records, violation of any of the provisions of the Charter, ordinances, or the following rules:

1. Incompetence or inefficiency in performing duties;
2. Conviction of a criminal offense or of a malfeasance involving moral turpitude;
3. Violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline;
4. Being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty;
5. Theft, destruction, carelessness, or negligence of city property;
6. Disgraceful personal conduct or language toward the public, fellow officers, or employees;
7. Unauthorized absence or abuse of leave privileges;
8. Incapacity to perform the essential functions of a job because of permanent or chronic physical or mental defect that cannot be reasonably accommodated;
9. Accepting any valuable consideration that was given with the expectation of influencing the employee in performing his/her duties;
10. Falsifying records or using official position for personal advantage;
11. Loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing his/her duties;
12. Violating any of the provisions of the City Charter, Personnel Rules and Regulations Policy; or
13. Violation of any departmental policies or rules.

4. DISABILITY

An employee may be separated for disability when he/she cannot perform required duties because of physical or mental impairment that cannot be accommodated without undue hardship or that poses a direct threat to the health and safety of others. Reasonable accommodations may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases, it must be supported by medical evidence acceptable to the City Manager. The city may require an examination at its expense and performed by a licensed physician of its choice.

5. DEATH

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the beneficiary of the employee.

6. RETIREMENT

Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system. It is recommended that employees who are eligible for retirement and who wish to retire should advise the human resource clerk and their department head/supervisor of their intentions six (6) months prior to the anticipated date, if at all possible, to allow sufficient lead time to complete appropriate paperwork and processing. Failure to do so may delay the desired retirement date.

B. DISCIPLINARY ACTIONS

DISCIPLINARY ACTION

1. All city employees not under an employment contract for a specified time period are employees at-will of the city. The city reserves the right to discharge at-will employees for cause or for no reason, except that no employee will be discharged for reasons that are prohibited by state and federal law.
2. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken may depend on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

- oral reprimand,
- written reprimand,
- suspension,
- demotion, and
- dismissal

1. ORAL REPRIMAND

When lapses in job performance or behavior occur and a supervisor's counseling over a reasonable period of time has yielded no improvement or corrective action from the employee, the supervisor may give an oral reprimand and place a memo in the personnel file at City Hall stating the date of the oral reprimand, what was said to the employee, and the employee's response.

2. WRITTEN REPRIMAND

The supervisor administering the reprimand may advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions will be taken.

3. SUSPENSION

The department head/supervisor must make a recommendation for suspension from duty as soon as possible to the City Manager, naming the employee affected and details of the reason for the action. In all cases final decision for action rests with the City Manager. The city manager may delegate authority to suspend employees to department heads when in the best interest of the city.

4. DEMOTION

Involuntary assignment of an employee from one class to another class that has a lower maximum pay rate, rank and/or responsibility. It could result in a reduction in pay.

5. DISMISSAL

All city employees not under an employment contract for a specified time period are at-will employees of the city. The city reserves the right to discharge at-will employees for cause or for no reason, except that no employee will be discharged for reasons that are prohibited by state and federal law.

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Title of Policy:	SAFETY	Pg 1-5
Section #:	Section 8	
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Amended by Ordinance 24-03-12-01, 24-10-08-01

A. WORKPLACE SAFETY

Workplace safety is everyone’s responsibility. The City, its management and employees are responsible in making sure all procedures are followed and reporting any safety issues. The City of Kingston complies with state and federal guidelines regarding safety.

The City has a designated safety committee consisting of representative(s) from each department for purposes of reporting and complying with OSHA and TOSHA and other regulatory and safety agencies. The City’s Safety Committee is appointed by the City Manager.

Management will:

- Provide recommendations for necessary safety equipment to perform assigned work in a safe manner.
- Provide recommendations on the elimination of known hazardous conditions at city worksites.
- Provide recommendations on training in accident prevention and promoting safe practices.
- Provide recommendations on the establishment of appropriate rules for safe conduct of City employees while on duty.

Employees must ensure that they:

- Follow prescribed safety rules and regulations provided for their benefit, health, and safety. Each employee is responsible to use all safety equipment and devices provided by the City in performing required job duties. Employees will identify safety problems, and carry out each work assignment or task in a safe and responsible manner. If an accident occurs, the employee is required to immediately complete an employee’s report of accident/injury and applicable state/federal forms.
- The employee is responsible to cease work immediately and cause the stoppage of work of other employees if the operation of unsafe equipment or working environment exists.
- Report any unsafe working conditions, or issues with safety protocol, equipment, etc.
- The appropriate corrective measures will be undertaken by a leader to remove the unsafe work condition or cause the repair of unsafe equipment. Under no circumstances should an employee be directed by a leader to continue to work in an unsafe work site or operate unsafe equipment until the unsafe condition has been properly addressed.
- Failure to report properly an unsafe condition or piece of equipment may result in discipline up to and including termination of employment.
- Failure of a leader to respond properly to correcting an unsafe workplace condition or unsafe piece of equipment may result in discipline up to and including termination of employment.

- Should an unsafe work site or equipment condition cause a disruption in completing the task, the leader will immediately reassign the employee to other duties until such time as he/she may continue the required work to complete the assigned task.

1. Safety Rules by Department

Each department may develop specific safety rules pertinent to their respective department. Safety rules shall be submitted to the City Manager. Approved departmental safety rules have the same force and effect as these personnel regulations.

2. Reporting On-the-Job Accidents and Injuries

Any employee involved in an accident or injury on the job, however slight shall immediately report the accident or injury to his or her supervisor, department head, Human Resources, City Manager and/or other responsible officials such as the safety committee. Failure to report an accident or injury may result in delaying proper medical treatment of the injury sustained by the employee, and could result in denial of a claim for compensation. Failure to report an on-the-job accident or injury, however, slight, may result in disciplinary action up to and including termination of employment.

3. Emergency Medical Treatment

If an employee is injured to the extent that emergency medical treatment is required, the employee will be transported immediately to a local health care provider or ER facility for treatment.

4. Completion of Accident Report

The employee will immediately complete a Report of Injury/Accident through his/her supervisor and coordinate this report with Human Resources. Failure of the employee to properly complete the report may result in disciplinary action up to and including termination of employment.

5. Reporting Vehicle or Equipment Accidents or Damage

All municipal employees that operate a municipal vehicle or a piece of equipment shall immediately report to their supervisor or Department Head any vehicle or equipment, accidents, or damage incurred while operating said vehicle or equipment and shall remain at the scene. An incident/crash report is required for all accidents to be completed by law enforcement. An accident involving the City of Kingston Police Department may require an accident/crash report from another law enforcement agency. The employee will complete a vehicle Accident Report that describes in sufficient detail how the accident occurred. The supervisor or department head will conduct an investigation of the accident and complete an accident investigation report. These reports must be forwarded to the safety committee and City Manager within 24 hours if feasible.

Failure to report an accident or damage to equipment, regardless of fault or severity of the damage, will be subject to disciplinary action up to and including termination of employment.

Management shall inspect or cause to be inspected all vehicles and all pieces of equipment on a periodic basis. They will maintain a log of all reported damage and accidents incurred on each vehicle and piece of equipment within their respective department.

6. Damage to Third Party or other private or public property

In the event an accident or damage incurred involves another party of damage to private property or another public property, the employee will request an officer from the Police Department or other

appropriate law enforcement authority, to complete an accident report that describes in sufficient detail the accident incurred. The employee will also complete a city accident investigation report that describes the incident. The supervisor or department head will conduct an investigation of the incident and complete a supervisor's property damage investigation report. These reports must be forwarded to the Safety Committee and City Manager within 24 hours.

7. Employee Negligence while operating a vehicle or equipment.

After investigation of an accident, if it can be demonstrated the employee operating the vehicle or equipment was negligent in operation of the vehicle or piece of equipment or in violation of motor vehicle regulations, operational safety rules, department guidelines or city policy, the employee may be subject to disciplinary action or termination of employment.

8. Driving Records

Any employee who is required as an employment condition to possess and maintain a valid Drivers or Commercial Driver's License must immediately, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, suspended, restricted, or revoked any time during employment with the City. Periodic review of employee's driving records may be conducted by the city.

9. Workers Compensation

An employee of the City who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury by the State Compensation Fund in accordance with the Tennessee Workers' Compensation Act. Workers' Compensation pays an employee 66.67% of their weekly salary once the employee has been disabled for seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury. If the employee is disabled for seven (7) days or more, workers' compensation will pay the employee retroactively from the first full day of absence from work up to the return date. Employees receiving workers' compensation payments may supplement their pay with accrued leave while receiving temporary disability insurance payments through worker compensation insurance.

Employees shall report any injury or illness incurred in the course of their employment, however minor, to their supervisor or Department Head. Failure to make such a report may disqualify the employee from receiving workers' compensation benefits and receiving any injury leave.

The employment of an injured employee, who is unable to return after a period of (3) three months, may be reassessed by the City Manager, at which time a determination regarding his/her employment status will be made.

B. Light Duty Policy

GENERAL POLICY

To provide temporary work for employees who cannot perform some or all of the essential functions of their job due to injury, illness, disability, or pregnancy-related restrictions.

SCOPE

All employees of the City of Kingston.

PROVISIONS

The City has a limited number of temporary light duty positions that it will make available on a first-come, first-serve basis to employees who provide medical documentation from their healthcare provider that they are unable to perform one or more essential job functions because of illness, injury, disability or pregnancy-related restrictions. Failure to supply such documentation will lead to denial of the light duty request. If no light duty positions are available at the time the employee requests such a position, the employee will be required to use applicable leave.

The City will not create a light duty job for purposes of this policy.

The length of time during which an employee may be assigned to a light duty position will vary according to the individual circumstances of the employee, but in no event will an employee be assigned to a light duty position for greater than one (1) year from the date the employee was first assigned the position.

An employee who qualifies for Family and Medical Leave cannot be required to take a light duty position.

Temporary assignment to a light duty position may be considered an accommodation of a disability under the Americans with Disabilities Act (ADA) depending on the circumstances of the employee's situation. The city is not required to offer a light duty position to an employee if doing so would create an undue hardship. Under no circumstances will a light duty job be made permanent as a reasonable accommodation under the ADA or otherwise.

In order to place an employee on light duty status, the Department Head, or his or her designee, must notify the City Manager and provide a copy of the employee's medical documentation. The Department Head will monitor employees placed on light duty status to determine the employee's progress towards recovery, the likelihood or expected date of the employee's return to full duty, requests for accommodations and the employee's use of leave and make appropriate recommendations to the City Manager.

A police officer in light duty status will take no law enforcement action. An officer in light duty may not operate a marked police vehicle. The same applies in regards to Firemen. The fireman in light duty will not be fighting fires nor driving any city fire trucks or vehicles.

Any continuation of secondary employment while on light duty must be approved by the Department Head in writing, after consulting with the City Manager.

Secondary employment that is inconsistent with the employee's light duty status will not be approved.

Employees on light duty status are responsible for providing additional medical documentation on a regular (at least monthly) basis or whenever requested to do so by the City.

Maximum Medical Improvement

Upon reaching Maximum Medical Improvement under applicable Tennessee Worker Compensation laws, the employee's medical condition shall be assessed as to the permanent medical restrictions and their ability to perform the essential duties of their normal work assignment. If the injured employee cannot return to his/her regular position, the City Manager in conjunction with the Department Head may attempt to find employment within the employee's department or within another department, if available. Reasonable accommodation will be provided to qualified, disabled individuals unless the accommodation would pose an "undue hardship" on the city. Unless required by law, employees are not guaranteed that a position will be offered of that future employment is assured.

C. INCLEMENT WEATHER AND EMERGENCY DELAY/CLOSURE POLICY

The City Manager will make and disseminate all official decisions concerning closing of City offices due to extreme inclement weather or other emergencies. For the purpose of this policy, unless otherwise specified, "City offices" shall include City Hall, the Community Center, and any other non-essential city facility. Such decisions will be transmitted to Department Heads and the media.

1. Department Heads will determine which employees are needed to maintain essential services when City offices are closed.
2. The Departments of Police, Fire and Public Works will keep the City Manager advised of those weather/emergency conditions which may affect the opening or closing of City offices.

Delayed Opening

When inclement weather is severe enough, the City Manager may elect to delay the opening of City offices. In such event, the Department Heads will be notified no later than 6:30 a.m. and the following announcement will be provided to local media:

"All City of Kingston Government Offices will delay opening until _____ a.m. Emergency and essential employees will report for work at their usual times."

Early Closing of Offices

The City Manager will make and disseminate all official decisions concerning the early closure of City offices due to extreme inclement weather or other emergencies.

Closure of Offices

The City Manager, or his designee, is the only individual empowered to announce the closure of City offices under this policy.

Notification Procedure

The following notification procedure shall be employed in the event of a delayed opening or official closing of City offices for the day. The City Manager shall notify the following individuals of his decision:

The Mayor and City Council	Director of Water and Sewer
Chief of Police	Finance Officer
Fire Chief	Library Administrator
Director of Recreation and Parks	Director of Public Works

Performance of Functions

In the event of inclement weather, or other emergency conditions, any employee may be directed to remain on duty beyond a regularly scheduled workday at the discretion of the City Manager or Department Head when such action is required for the delivery of essential public services or the transaction of essential City business.

If an employee is unable to report for work on days that offices remain open; the employee may use vacation / compensatory time / flex-time upon approval of the department head.

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Title of Policy:	EMPLOYEE CONDUCT	<u>Pg 1-26</u>
Section #:	Section 9	
Approval Date:	<u>December 12, 2023</u>	
Revision Date:		Policy 9

9.1 CODE OF ETHICS

The following guidelines must be followed by City employees.

An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

1. For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing City business;
3. May not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law, or with the intent to result in financial gain for himself or any other person or entity;
4. May not use or authorize the use of City time, facilities, equipment, or supplies for private gain or advantage to himself or to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the City.
5. May not make or attempt to make private purchases, for cash or otherwise, in the name of the City or use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the Charter, general law, ordinance or policy of the City;
6. May not continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the City position or conflicts with any provision of the City's Charter or any ordinance or policy.

The City Attorney is designated as the ethics officer of the municipality and the interpretation that a reasonable person would make shall be used in interpreting and enforcing this code of ethics.

9.2 SUBSTANCE ABUSE POLICY

The City of Kingston is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any City of Kingston employee illegally uses drugs on or off the job, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore,

The City of Kingston has established the following policy, pursuant to T.CA Section 50-9-100 et s

- (1) It Is a violation of City policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage In the Illegal use of drugs on or off the Job,
- (2) It Is a violation of City policy for any employee to report to work under the Influence of or while possessing in his or her body, blood or urine. Illegal drugs in any detectable amount.
- (3) It is a violation of City policy for any employee to report to work under the influence of or impaired by alcohol and or drugs.
- (4) It Is a violation of the city policy for any employee to use prescription drugs Illegally, I.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications unless those medications cause Impairment.
- (5) Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the Department Head to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the Department Head's job to diagnose personal problems, the Department Head should encourage such employees to seek help and advise them about valuable resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug- free environment The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the City of Kingston.

As a condition of employment, employees must abide by the term of this policy and must notify The City of Kingston in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

The City of Kingston offers an Employee Assistance (EAP) benefit for employees and their dependents. This program is open only to employees enrolled in our health benefit plan. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, costs may be covered by the employee's medical insurance; but the cost of such outside services are the employees' responsibility. Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to supervisors, nor will it be included in the permanent personnel file. Participation in the EAP will not affect an employee's career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance continues: The EAP is a process used in conjunction with discipline, not a substitute for discipline. The EAP can be accessed by an employee through self-referral or through referral by a supervisor. We will also distribute information about other EAP resources to employees not enrolled in our health benefits for their confidential use.

General Procedures

Any employee reporting to work visibly impaired will be deemed unable to perform required duties and will not be allowed to work. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next, the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion

of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative - depending on the determination of the observed impairment - and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

Opportunity to Contest or Explain Test Results

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer; if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the City of Kingston; a person may contest the drug test result pursuant to rules adopted by the Bureau of Workers' Compensation.

Confidentiality

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

Job Applicant Drug Testing

All job applicants in safety sensitive positions at the City of Kingston will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment. Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by The City of Kingston, and by signing a consent agreement will release the City of Kingston from liability. If the physician, official or lab personnel have reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment. Kingston will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the City of Kingston will not tolerate.

Employee Drug Testing

The City of Kingston has adopted testing practices to identify employees who use illegally use drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

1. When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. 'Reasonable suspicion' is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:
 - (A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
 - (B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 - (C) A report of substance abuse provided by a reliable and credible source;

- (D) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;
- (E) Information that an employee has caused or contributed to an accident while at work; or
- (F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment

2. When employees have caused or contributed to an on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider. An employer may send employees for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs.

3. As part of a follow-up program to treatment for drug abuse

4. Routine fitness-for-duty drug or alcohol testing. A covered employer must require an employee to submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by law, regulation, are part of the covered employer's established policy, or one that is scheduled routinely for all members of an employment classification group.

Alcohol Testing

The consumption or possession of alcoholic beverages on the City of Kingston premises is prohibited. An employee whose normal faculties are impaired due to alcoholic beverages while on duty/City business shall be guilty of misconduct and shall be subject to discipline up to and including termination.

Refusal to Submit

Failure to submit to a required substance abuse test also is misconduct and shall be subject to discipline up to and including termination. If an employee attempts to falsify test results through tampering, contamination, adulteration, or substitution shall not be allowed to report for duty and his or her employment will be terminated. Refusal can include the inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

Disciplinary

Violation of this policy can lead to disciplinary action up to and including termination. The City of Kingston shall withdraw any conditional offer of employment to an applicant who receives a verified positive drug test or confirmed alcohol presence test.

If the employee has a positive confirmed test result a medical review officer will attempt to contact the individual in order to privately discuss the findings with that person. The employee can declare and prove any prescriptions that could alter the outcome of the screening. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer. Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and non-prescription medicine.

If the City Manager determines not to terminate an employee for a violation of this policy, the City of Kingston may subject the employee to unannounced follow-up alcohol and/or controlled substances testing.

Return-to-Duty Testing

If an employee is not terminated for a violation of this Policy, the employee shall undergo return-to-duty testing as set forth in this paragraph.

- The City of Kingston shall ensure that before an employee returns to duty after engaging in prohibited conduct regarding controlled substances, the employee shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.
- The City of Kingston shall ensure that before an employee returns to duty after engaging in prohibited conduct regarding alcohol misuse, the employee shall undergo a return-to-duty alcohol test indicating a verified breath alcohol of a negative result

It is the responsibility of every employee or job applicant to notify the testing laboratory of any administrative or civil action brought pursuant to TCA Section 50-9-100 et. seq. Drug-Free Workplace Programs.

The provisions of this policy are subject to any applicable collective bargaining agreement or contract and include the right of appeal to the applicable court

9.3 SOLICITATION

The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, all solicitations must receive prior approval by the City Manager

9.4 CUSTOMER COURTESY

Any contact with customers / citizens should be handled in a professional manner. Professionalism, politeness, and courtesy are essential.

Lack of courtesy and professionalism may result in disciplinary action.

9.5 SEXUAL HARASSMENT

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women. An employee who feels he/she is subjected to sexual harassment should immediately contact an administrative person with whom the employee feels the most comfortable. The City Manager, or designee, is the person the city designates as the investigator of sexual harassment complaints against employees.

In the event the harassment complaint is against the City Manager, the investigator shall be the City Attorney or independent outside counsel appointed by the City Council, or provided through the city employment practices liability insurer.

Purpose

The city will take immediate steps to stop such harassment when it occurs. This policy applies to all officers and employees of the city including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, and volunteers or employees working under contract for the city.

Definitions

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. sexual harassment or unwelcome sexual advances;
2. requests for sexual favors;
3. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. explicit or implied job threats or promises in return for submission to sexual favors;
5. inappropriate sexually-oriented comments on appearance;
6. sexually-oriented stories;
7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, and Internet materials)

Making Harassment Complaints

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. the employee's immediate supervisor,
2. a department head,
3. the human resources manager,
4. the city manager,
5. the city attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people committing the alleged harassment, including their title(s), if known;

3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

Reporting and Investigating Harassment Complaints

The City Manager, or designee, is the person the city designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against City Manager, the investigator shall be the city attorney, independent outside counsel appointed by the governing body, or provided through the city employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the city will separate the complainant and accused party for the duration of the investigation; upon the approval of the department head and City Manager;
2. the investigator will meet with the employee(s), any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information.
3. the investigator will immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager;
4. the investigator will make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
 - a. verbal responses made to the investigator by the person complaining of harassment,
 - b. witnesses interviewed during the investigation,
 - c. the person against whom the complaint of harassment was made, and
 - d. any other person contacted by the investigator in connection with the investigation; and
5. Within ten city business days (unless nature of investigation dictates a longer period is needed) of receiving the complaint, the investigator will prepare and present the findings to the City Manager in a report, which will include:
 - a. the written statement of the person complaining of harassment;
 - b. the statements of witnesses;
 - c. the written statement of the person against whom the complaint of harassment was made; and
 - d. all the investigator's notes connected to the investigation.

Action on complaints of sexual harassment

Upon receiving an investigation report of a harassment complaint, the City Manager and/or city attorney shall review the report. If the City Manager and/or city attorney determine that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), City Manager and/or city attorney shall, within a reasonable time, determine whether the conduct in question constitutes harassment. In making that determination, the City Manager and/or city attorney shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment took place will be determined on a case-by-case basis.

If the City Manager and/or city attorney determine that the harassment complaint is founded, the city shall take appropriate disciplinary action against the guilty employee, consistent with its authority under the charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s). A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action shall be consistent with the nature and severity of the offense and any other factors the city manager believes relate to fair and efficient administration of the city. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the city. The city will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the

investigation. All other city employees are also warned not to retaliate in any way to the above-mentioned parties. Any such retaliation or harassment will be dealt with immediately and may include disciplinary action.

If the employee complaining of harassment is not satisfied with the manner in which the city addressed the complaint, the employee shall be given an opportunity to present a written appeal. The written appeal must specifically identify what aspect of the city's response was not satisfactory to the employee and why it was not satisfactory. The appeal must be submitted to the City Manager within ten (10) city business days from the date on which the disciplinary action was rendered. The Office of the City Manager will render a written determination in the matter within ten (10) city business days from receipt of the appeal.

The decision of the City Manager will be final in all such matters. The City Manager has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the City Manager when he/she determines that a neutral third party is in the best interest of the City. In cases where the complaint is filed against the City Manager, a neutral third party, appointed by the City Council, shall be used as a final decision-maker.

In cases where harassment is committed by a non-employee against a city employee in the workplace, the City Manager shall take whatever lawful action is necessary against the non-employee to bring the harassment to an immediate end.

The City Council may discipline an elected official or appointed board member in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions, or other rules governing discipline of elected officials.

Employee Obligation

Employees are obligated to report instances of all forms of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action.

9.6 BULLETIN BOARDS

The city maintains bulletin boards at numerous locations on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate supervisor before it is posted.

9.7 WORKPLACE VIOLENCE AND HARASSMENT

The city is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the city to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the city's activities. Employees and customers are to be always treated with courtesy and respect.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information, or any other basis protected by law. This policy applies to all City of Kingston employees, elected officials, appointed officials, regular part time/temporary employees, and contractors/vendors.

The city will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:

A. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive

flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.

B. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding, or blocking the movement of another person.

C. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications, or drawings.

D. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).

Under no circumstances are the following items permitted on city property, including city-owned parking areas, except when issued or sanctioned by the city for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. knuckles; or
- d. other objects carried for the purposes of injury or intimidation.

Charges of violence and harassment may be reported to any supervisory employee of the city, including the City Manager. The city will promptly investigate reports of workplace violence including suspicious individuals or activities. The City Manager, or designee, is charged with investigating all cases of workplace violence and harassment.

Depending on the severity of the charges or whether a crime is committed, the City Manager may request that law enforcement provides assistance or assume responsibility for the investigation.

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. All employees are required to assist during the investigation by providing testimony, statements, and evidence, as required. Failure to cooperate may result in disciplinary action.

Copies of the investigative report with recommendations for appropriate action will be turned over to the City Manager for further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors or the City Manager before the situation escalates into potential violence.

The city is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action

SEXUAL HARASSMENT

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women. An employee who feels he/she is subjected to sexual harassment should immediately contact an administrative person with whom the employee feels the most comfortable. The City Manager, or designee, is the person the city designates as the investigator of sexual harassment complaints against employees.

In the event the harassment complaint is against the City Manager, the investigator shall be the City Attorney or independent outside counsel appointed by the City Council, or provided through the city employment practices liability insurer.

Purpose

The city will take immediate steps to stop such harassment when it occurs. This policy applies to all officers and employees of the city including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, and volunteers or employees working under contract for the city.

Definitions

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. sexual harassment or unwelcome sexual advances;
2. requests for sexual favors;
3. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. explicit or implied job threats or promises in return for submission to sexual favors;
5. inappropriate sexually-oriented comments on appearance;
6. sexually-oriented stories;
7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, and Internet materials)

Making Harassment Complaints

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. the employee's immediate supervisor,
2. a department head,
3. the human resources manager,
4. the city manager,
5. the city attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people committing the alleged harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

Reporting and Investigating Harassment Complaints

The City Manager, or designee, is the person the city designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against City Manager, the investigator shall be the city attorney, independent outside counsel appointed by the governing body, or provided through the city employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the city will separate the complainant and accused party for the duration of the investigation; upon the approval of the department head and City Manager;
2. the investigator will meet with the employee(s), any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information.
3. the investigator will immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager;
4. the investigator will make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
 - a. verbal responses made to the investigator by the person complaining of harassment,
 - b. witnesses interviewed during the investigation,
 - c. the person against whom the complaint of harassment was made, and
 - d. any other person contacted by the investigator in connection with the investigation; and

5. Within ten city business days (unless nature of investigation dictates a longer period is needed) of receiving the complaint, the investigator will prepare and present the findings to the City Manager in a report, which will include:

- a. the written statement of the person complaining of harassment;
- b. the statements of witnesses;
- c. the written statement of the person against whom the complaint of harassment was made; and
- d. all the investigator's notes connected to the investigation.

Action on complaints of sexual harassment

Upon receiving an investigation report of a harassment complaint, the City Manager and/or city attorney shall review the report. If the City Manager and/or city attorney determine that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), City Manager and/or city attorney shall, within a reasonable time, determine whether the conduct in question constitutes harassment. In making that determination, the City Manager and/or city attorney shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the City Manager and/or city attorney determine that the harassment complaint is founded, the city shall take appropriate disciplinary action against the guilty employee, consistent with its authority under the charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s). A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action shall be consistent with the nature and severity of the offense and any other factors the city manager believes relate to fair and efficient administration of the city. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the city. The city will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the

investigation. All other city employees are also warned not to retaliate in any way to the above-mentioned parties. Any such retaliation or harassment will be dealt with immediately and may include disciplinary action.

If the employee complaining of harassment is not satisfied with the manner in which the city addressed the complaint, the employee shall be given an opportunity to present a written appeal. The written appeal

must specifically identify what aspect of the city's response was not satisfactory to the employee and why it was not satisfactory. The appeal must be submitted to the City Manager within ten (10) city business days from the date on which the disciplinary action was rendered. The Office of the City Manager will render a written determination in the matter within ten (10) city business days from receipt of the appeal.

The decision of the City Manager will be final in all such matters. The City Manager has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the City Manager when he/she determines that a neutral third party is in the best interest of the City. In cases where the complaint is filed against the City Manager, a neutral third party, appointed by the City Council, shall be used as a final decision-maker.

In cases where harassment is committed by a non-employee against a city employee in the workplace, the City Manager shall take whatever lawful action is necessary against the non-employee to bring the harassment to an immediate end.

The City Council may discipline an elected official or appointed board member in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions, or other rules governing discipline of elected officials.

Employee Obligation

Employees are obligated to report instances of all forms of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action.

9.8 ABUSIVE LANGUAGE

Abusive language in any manner while under the employment of the City of Kingston will be considered as irresponsible behavior and/or an activity to undermine the morale and work efficiency of other staff members. The term "abusive" is interpreted to include any vulgar, profane, foul, obscene, indecent, filthy, repulsive, degrading, humiliating or otherwise offensive language, including language which is designed to damage the moral or work efficiency of other city employees or city officials.

9.9 PERSONAL COMMUNICATION

Use of personal cellular phones / text messaging during work hours, except in emergency cases, is discouraged. Personal calls / text messages that must be made or received during business hours are permitted if they are held to a minimum and do not interfere with the employee's work.

Emergency phone calls / text messages may be made or received any time. Examples of emergencies are illness or severe injury to a member of the employee's family, changed plans regarding an employee's transportation home from work or extreme weather conditions.

The use of the office telephone during regular work hours for local and/or long distant calls of a personal nature, except in emergency cases, is discouraged. Therefore, any use of the office telephone for personal reasons should be kept to a minimum and only when absolutely necessary.

The cost of personal long-distance calls and/or data/text/cell usage on city issued cellular devices made by employees may have to be reimbursed to the city. Abuse of this policy may be subject to disciplinary action.

9.10 BUSINESS INTEREST

No department head or supervisor shall have any financial interest in the profits of any contract, service, or other work performed by the local government. No department head or supervisor shall personally profit directly or indirectly from any contract, purchase, sale, or service between the local government and any person or company. No department head or supervisor shall personally, or as an agent, provide any surety, bail, or bond required by law or subject to the approval of the City Manager.

No city employee shall enter a contract with the city or perform any work or function under any contract with the city if he/she has a direct or indirect financial interest in the contract, unless:

1. The contract is awarded through a process that complies with the city's purchasing requirements; or;
2. The City Manager waives this section's requirements after making a formal finding that it is in the best financial interest of the city to do so after full disclosure on the part of the city employee of his/her direct or indirect financial interest in the contract, and the City Manager's finding and waiver and the employee's full financial disclosure are recorded in the minutes of the deliberation in open session.

9.11 GIFTS AND DONATIONS

Gifts and donations are to be approved by the City Manager.

It shall be the policy of the City of Kingston that no City employee or official shall solicit or officially accept any donation or gift on behalf of the City unless and until such solicitation or proposed donation is first approved and authorized by the City Manager. For the purpose of this policy, the phrase "donation or gift" shall include, but is not limited to, such items of value such as cash, bonds, real estate, automobiles, and other items of value.

Fiscal evaluation.

Prior to accepting a donation or gift, the City Manager shall conduct a cost / benefit analysis to determine how acceptance of the proposed gift or donation will affect the City.

Legal evaluation

Prior to accepting a donation or gift, the City Manager shall seek and obtain appropriate legal advice to determine the legal implications of such acceptance. In no event shall the City accept offers of donations or gifts which predicated on the donor receiving favorable treatment by the City, nor shall the City accept donations or gifts which are predicated on the City pursuing policies which violate State or Federal law, or municipal ordinance. No donation or gift will be accepted that in any way represents a conflict of interest with any vendor operating under contract with the City.

Inappropriate donations or gifts.

In considering the acceptance of donations or gifts, the City Manager may consider whether such acceptance, or the conditions of such acceptance, may be unreasonably offensive to the City.

All donations or gifts to be documented.

Any donation or gift approved for acceptance by the City Manager shall immediately be receipted by the Finance Officer and a file is to be maintained documenting the use of any donated funds, materials or other items of value.

Exceptions for grants and low-interest loans.

Nothing in this policy shall be construed to apply to any federal or state grants or low-interest loans offered to the City of Kingston

9.12 USE OF CITY VEHICLES AND EQUIPMENT

All city vehicles and equipment are for official use only, unless otherwise authorized. No other person other than a city employee may operate a city vehicle or piece of machinery. Drivers and operators must have a valid Tennessee driver's license and be approved by the department head, or the City Manager.

Approval of city-owned vehicles driven home (except in emergency situations) must be made on an individual basis by the City Manager. Drivers and/or operators of city vehicles must have a valid Tennessee Drivers' License with only minor traffic violations during the past five (5) years.

9.13 MISUSE OF CITY PROPERTY

Misuse of City property violates the values of integrity, respect, and continuous improvement of the City. Misuse of property may include, but is not limited to: misusing or taking broad property or the property of others without permission, or misusing or misappropriating funds, misuse of copyrighted material, vandalism, embezzlement, using City resources/positions, business cards / identification / security badges for unauthorized business or personal reasons or personal gain.

The City of Kingston has the authority to search and inspect all city property at all times. This includes but not limited to vehicles, desks, computers, lockers, etc.

9.14 WEAPONS

All employees, except those authorized to carry weapons for official job-related purposes (sworn law enforcement officers/arson investigators), are prohibited from carrying weapons while performing work for the City of Kingston.

Notwithstanding any law or any ordinance or resolution adopted by the governing body of a city, county, or metropolitan government, including any ordinance or resolution enacted before April 8, 1986, that prohibits or regulates the possession, transportation, or storage of a firearm or firearm ammunition, a person who has a valid enhanced handgun carry permit or concealed handgun carry permit or who lawfully carries a handgun pursuant to § 39-17-1307(g) may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the person's motor vehicle, as defined in § 55-1-103, while on or utilizing any public or private parking area if:

- (1) The person's motor vehicle is parked in a location where the motor vehicle is permitted to be; and
- (2) The firearm or ammunition being transported or stored in the motor vehicle:
 - (A) Is kept from ordinary observation if the person is in the motor vehicle.
 - (B) Is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to the motor vehicle if the person is not in the motor vehicle.

Dangerous devices and weapons prohibited by T.C.A. § 39-17-1302 are prohibited from possession on city property except when issued or sanctioned by the city for use in the performance of the employee's job.

9.15 SOCIAL MEDIA

Policy statement

Use of the city's social media to support or oppose individual political candidates, political parties, or any ballot measure is strictly prohibited.

For purposes of this policy, social media is content created by individuals using accessible and scalable technologies through the internet. Examples of social media include but are not limited to: Facebook, blogs, RSS, YouTube, Twitter, LinkedIn, discussion forums, and online collaborative information and publishing systems that are accessible to internal and external audiences (i.e. wikis, including Wikipedia).

Employees shall abide by the terms of use and rules and guidelines of each individual social media platform utilized. By posting on the city sites, an employee may be granting to the city an irrevocable, perpetual, non-exclusive license to use and distribute content for any purpose, commercial, advertising, or otherwise. Employees who violate the terms of this policy are subject to discipline up to and including termination.

City owned or created social media

The city maintains an online presence. The provisions of this section apply to city employees posting content in an official capacity on a city owned or created social media platform or on any other platform. Unless authorized, an employee may not characterize him or herself as representing the city directly or indirectly.

All city social media sites and platforms representing the city in an official capacity must be created pursuant to this policy and be approved by the city manager. Accounts and pages should, where possible, feature the official city name and logo.

The city maintains a primary and predominant internet presence defined by the city manager, and no other website, blog or social media site shall characterize itself as such. Whenever possible a social media site or platform shall link or otherwise refer visitors to the city's main website. The city manager, or designee, shall coordinate the upkeep of content on social media sites or platforms created pursuant to this policy.

All city social media sites and platforms are subject to the Tennessee's Public Records Act (T.C.A. § 10-7-101, et seq.), and no social media site or platform shall be used to circumvent or otherwise violate this

law. All lawful records requests for information contained on a city social media site or platform shall be directed to the city manager, and will be fulfilled by any employee whose assistance is necessitated. All official postings on a city social media site or platform shall be preserved to the extent possible in each platform in accordance with any applicable retention policy.

A social media site or platform shall contain a clear and conspicuous statement that the purpose of the site or platform is to serve as a mechanism for communication between the city and its citizens/customers and that all postings are subject to review and deletion by the city, to the extent permitted by law.

The following content is not allowed and can be removed from any city social media sites and platforms:

In the event that content is removed or hidden from the site-All content is memorialized and available

- a. Profane language or content;
- b. Obscene images;
- c. Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law, creed, or status with regard to public assistance;
- d. Sexual content or links to sexual content;
- e. Solicitations of commerce;
- f. Illegal conduct or encouragement of such;
- g. Content that incites violence or harassment;
- h. Links to third party sites and platforms; or
- i. Content that violates a legal ownership interest of any other party.

Administration of city's social media sites and platforms.

- a. The city manager, or designee, will review, test, and technically approve social media tools and implementation for use by city staff.
- b. The city manager, or designee, will maintain an authorized site/platform list of all city social media sites and platforms, including login and password information.
- c. The city must be able to immediately edit or remove content posted by staff serving as administrators for city social media sites and platforms.

Rights and permissions must be secured before posting, sharing or distributing copyrighted materials, including but not limited to: music, art, copyrighted photographs or texts, portions of copyrighted video, or information considered proprietary by a city employee, vendor, affiliate or contractor. Authorized employees must secure written permission prior to using/incorporating any copyrighted or proprietary materials except when such material is covered under Fair Use provisions.

An employee must not post content on city sites and platforms that might be embarrassing to an individual or that could be construed as placing a customer, employee, or other individual in a negative or false light. An employee must not post content that might cause someone to believe that his/her name, image, likeness, or other identifying aspect of his/her identity is being used, without permission, for commercial purposes. Employees shall not post any content to a city's social media site or platform for their financial gain or for the financial gain of any other person or entity. A city employee posting on a

city social media site or platform shall take reasonable care not to disclose any confidential information in any posting.

Non-city social media

This section applies to city employees posting content to non-city created social media sites and platforms in their personal capacity. Employees are prohibited from posting anything on the Internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination. Employees should limit their personal Internet activities to non-working hours, meal periods and/or rest breaks. An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless done pursuant to a written policy of the city.

The simultaneous use of a city email address, job title, official city name, or logo in conjunction with a posting may be evidence of an attempt to represent the city in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity may also be deemed evidence to represent the city in an official capacity.

Any postings on non-city social media sites and platforms made in an official capacity may be subject to the Tennessee Public Records Act. A city employee posting on a non-city social media site or platform shall take reasonable care not to disclose any confidential information in any posting. When posting in a personal capacity an employee should take reasonable care to distinguish that his content is a personal expression and not that of the city.

9.16 NON-SMOKER PROTECTION ACT

The city complies with the non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, or vehicles and city owned equipment. All employees who operate city owned vehicles are prohibited from the use of tobacco (smoking, chewing, dipping, etc.) and vaping in the vehicle or piece of equipment. This includes other occupants that may be transported in the vehicles. No person shall use tobacco in any form in a city owned or leased facility or vehicle. Violators of this policy are subject to disciplinary action up to termination of employment.

9.17 CELL PHONE USE IN CITY VEHICLES

Employees who operate a City of Kingston/KWD vehicle and or equipment are not to use a handheld cell phone or other device, either personal or business while driving or operating equipment. Cell phones shall not be used while refueling city vehicles or equipment. Texting or manipulating a hand-held electronic device of any kind is prohibited while employees are operating city vehicles and equipment (except for emergency personnel)

"Hands Free Tennessee"

Effective July 1st, 2019.

Tennessee Code Annotated, Section 55-8-199, is amended by deleting the section and substituting instead the following:

(a) As used in this section:

(1) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) "Utility services" means electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b)

(1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person's body, a:

(i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(a) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(b) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen

(18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device's global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)

(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars (\$50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars (\$100); or if the violation occurs in a work zone when employees of the department of transportation or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars (\$200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

(1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;

(2) Campus police officers and public safety officers, as defined by § 49- 7-118, when in the actual discharge of their official duties;

(3) Emergency medical technicians, emergency medical technician paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;

(5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if

the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;

(6) Employees or contractors of utility services providers acting within the scope of their employment; and

(7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training.

SECTION 2. Tennessee Code Annotated, Section 55-8-207, is amended by deleting the section in its entirety.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it.

9.18 POLITICAL ACTIVITIES/PROTECTED SPEECH

A. POLITICAL PARTICIPATION

The City of Kingston encourages all City employees to participate in the political process by registering and voting in each election. However, it is necessary to implement some policies to avoid conflict of interest between political activity and public employment in a City Position.

B. CAMPAIGNING

City employees, whether on or off duty; in or out of uniform; and whether on or off city property, shall not, at any time or any place, become a candidate for an elected city office. The city will not compensate employees for time when the employee is not performing work for the local government. Any time off from work used by the employee for participation in political activities will be limited to earned day off, vacation days, or by any other arrangement worked out between the employee and the City.

In all other elections for public office, city employees may enjoy the rights of any other citizen of the State of Tennessee to be a candidate for any local political office; the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The city will not compensate employees for time when the employee is not performing work for the City.

Nothing in this section is intended to prohibit any employee from privately expressing his/her political views or from casting his/her vote in all elections.

C. MEETING TO DISCUSS CANDIDACY / OFFICE

An employee who becomes a candidate for any elective office shall, within fifteen (15) days meet with the department head and the city manager to discuss the candidacy and its potential effect on the employee's position. If after consultation with the department head, the city manager determines that the employee's candidacy has caused or has the potential to cause a conflict with the employee's regular position, or that the employee is not meeting the work obligations of the City position in full, the employee may be required to take accumulated vacation or personal leave for the remainder of the campaign.

D. PERMITTED POLITICAL ACTIVITIES

A City employee may exercise his/her rights when acting as a private citizen to engage in political activity not affecting an elective City office, including but not limited to:

1. Form, join or possess membership in a political party, club or other political organization
2. Run for office in the organization (unless prohibited by ordinance) and take an active role in the management of the organization.
3. Attend meetings.
4. Vote on the positions of the organization candidates and issues.

E. PROHIBITED POLITICAL ACTIVITIES

Employees may not:

1. Use or permit others to use authority of their position with the City to endorse or actively support a candidate for any political office, including the use of any City property, uniforms, vehicles, equipment, resources, facilities, or other deemed the property and or resources of the City.
2. Employees may not represent themselves, nor knowingly permit themselves to be represented, as City employees while engaging in any form of political activity.
3. City employees, individually, or collectively, are prohibited from endorsing or actively working for the election of, recall of, or opposing, or working for, the defeat of any candidate for City office while actively on duty.
4. An employee of the City may not directly, or indirectly, coerce attempt to coerce, command or advise another City employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes, or to campaign for or support any political candidate, or to refrain from any political activities except as provided in the Charter or this personnel document.
5. No solicitations of signatures for political petitions will be allowed, nor shall anyone seeking political office actively engage employees for political positions while City employees are on active duty.
6. Employees who are candidates for or elected to a political position or who are appointed to a City board, are required to fulfill their job responsibilities and duties under their employment with the City of Kingston.

F. COMMUNICATION WITH ELECTED PUBLIC OFFICIALS

An employee of the City of Kingston has a right to communicate with Elected Public Officials under the Employee Political Freedom Act (PEPFA) T.C.A §-50-601-604. The city will not discipline, threaten to discipline, or discriminate against any employee for communication with an Elected Public Official unless the statement to the Elected Public Official is untrue.

9.19 COMPUTER USE AND MONITORING

THE CITY OF KINGSTON AND THE KINGSTON WATER DEPARTMENT WILL DEVELOP AND IMPLEMENT A COMPREHENSIVE CYBERSECURITY POLICY (*see appendix when adopted*)

Computers, the internet, e-mail, as with other technologies, should be used to maximize the city's efforts in serving its citizens. It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not, grant employees any contractual rights.

Computer Use Policy Overview

The computer resources are the property of the city and should be used for legitimate business purposes. While personal use of city computer resources is not forbidden, it is discouraged. Personal use shall be minimal and shall not interfere with the performance of the employees, or other employees', job duties and responsibilities. Employees are permitted access to the computer resources to assist them in performing their jobs. Confidential information should not be provided using e-mail or shared with individuals who are not employed by the city without authorization.

No one may use loopholes within the computer security systems, acts of deception, or knowledge of a special password to damage computer systems, compromise sensitive information, obtain extra resources, take resources from another employee, gain access to systems, or use systems from which proper authorization has not been given. Employees may not impersonate other individuals or misrepresent themselves to gain access to or compromise the city's information technologies.

The internet, e-mail or voice mail should not be used to solicit others to promote personal events or causes, commercial ventures, religious or political causes, outside organizations or other non-business matters. Employees are prohibited from uploading, posting, e-mailing, or otherwise transmitting any unsolicited or unauthorized advertising, promotional materials, junk mail, chain letters, pyramid schemes or any other form of solicitation. No one may use the city's computer resources for personal financial gain by posting messages that promote the products or services of a local business or their own product or services.

Use of the computer resources is a privilege that may be restricted or revoked at any time. All information contained in the computer resources and all documents generated there from are for the exclusive use of the city in connection with the conduct of its business and are the sole property of the city.

Waiver of Privacy Rights

Employees expressly waive any right of privacy in anything they create, store, send or receive using the computer resources. Employees consent to allowing the city to access and review all materials employees create, store, send or receive using the computer resources.

Inappropriate or Unlawful Material.

Material that is, or could reasonably be regarded as, derogatory or discriminatory on the basis of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information or any other basis protected by law, or is fraudulent, harassing, sexually explicit, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, by e-mail or other forms of electronic communication (such as bulletin board systems, news groups and chat groups) or displayed on or stored in the computer resources. Any such material received by electronic transmission from a source outside of the city should be deleted immediately.

Misuse of Software

The city purchases and licenses the use of various computer software programs. Without prior authorization and proper licensing, employees may not do any of the following: a) copy software for use on their home computers; (b) provide copies of software to any third person; (c) install software or hardware on any city computer resources; (d) download any software from the internet or other online service to any city computer resources; (e) modify, revise, transform, recast or adapt any software on any computer resources.

Compliance with Laws and Licenses

In their use of computer resources, employees must comply with all software licenses and copyrights and all state, federal and international laws governing intellectual property and online activities.

Communication of Confidential Information

Unless expressly authorized by the city, sending, transmitting, or otherwise disseminating confidential information is strictly prohibited.

Use of Encryption Software

Employees may not install or use encryption software on any city computers without first obtaining written permission from the city manager.

Monitoring Usage

The city may monitor all aspects of the use of computer resources. The circumstances under which monitoring of computer resources will occur may include: monitoring sites visited by employees on the internet, monitoring chat groups and news-groups, reviewing material downloaded or uploaded by employees to the internet, and reviewing e-mail sent and received by others. Employee violations of any of the provisions outlined in this policy may subject employee to disciplinary action.

Public Records

All correspondence sent and/or received by employees related to city business is public record under the Tennessee Public Records Act and may be subject to public inspection under the law.

"CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED INFORMATION."

In addition, to preserve the attorney/client privilege, messages to and from legal counsel should never be sent to distribution lists or forwarded to anyone else. It is best if such messages are not retained on a network e-mail system. If a copy of an attorney/client privileged communication needs to be retained, it should be printed and filed in an appropriate place.

9.20 GRIEVANCE PROCEDURES

A grievance is defined as an employee's feeling of dissatisfaction, or any differences, disagreements, or disputes arising between an employee and his/her supervisor and/or other employees regarding some aspect of application or interpretation of regulations and policies, or some operational management decision affecting the employee. A grievance can be something real, alleged, or a misunderstanding concerning the rules and regulations or administrative order involving the employee's health, safety, physical facilities, equipment, or material used.

Grievances should be reduced to writing for clarity purposes. Both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a review by the city manager. Employees who have a grievance should discuss it with their immediate supervisor, or a higher-level supervisor, prior to review by the city manager. An employee shall be free from threats, coercion, intimidation, or discrimination because he/she has made complaints, testified, or assisted in any manner in the grievance process.

PERSONNEL POLICY MANUAL

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CITY OF KINGSTON
EMPLOYEE PERFORMANCE EVALUATION

Original/
Copies to

Human Resources
Employee
Dept. File

Employee Name:

Hire Date:

Job Title:

Department:

Rating Period:

From:

To:

Type of Review: Probationary Annual

The value of this review depends solely on the person making the rating, his/her impartiality, and sound judgment. The rating should be made with great care and fairness in the interests of the employee and the City of Kingston. Think carefully of the employee's work and make an honest judgment of the qualities of the employee. Base your judgment on the entire period covered and not upon isolated incidents alone. Base your ratings on accepted standards for that type of work. If additional space is needed for comments, feel free to attach additional sheet.

QUANTITY OF WORK

Consider the quantity of work performed and the promptness with which it is completed.

Seldom completes an acceptable amount of work. Generally slow. Wastes time. Productivity inadequate.

Production below average. Does just enough to get by. Needs to work more rapidly.

Usually produces an acceptable volume of work. Works steadily

Produces a high quantity of work. A thorough and careful worker. Seldom slacks off.

Consistently high production. Works with speed and accuracy. Does more than expected.

Unsatisfactory

Below Average

Average

Above Average

Outstanding

Comments:

QUALITY OF WORK

Consider the quality of work performed. Is it neat? Does it meet standards?

Makes excessive and repetitive mistakes. Cannot be given work requiring accuracy.

Work often needs excessive inspection. Makes more errors than should.

Quality meets set standards. Makes few errors.

Quality is above set standards. Does good work.

Errors are rare. Does Excellent work.

Unsatisfactory

Below Average

Average

Above Average

Outstanding

Comments:

KNOWLEDGE OF WORK

Consider basic knowledge of job, related work and equipment.

Has inadequate knowledge of job and procedures. Fails to grasp anything but most elementary concepts of job.

Sometimes slow to grasp details required. Has acquired limited knowledge of job.

Acceptable knowledge of job and procedures. Needs normal amount of instruction.

Good knowledge of job and procedures. Needs little instruction.

Thorough knowledge of job and procedures. Excellent grasp of details.

Unsatisfactory

Below Average

Average

Above Average

Outstanding

Comments:

DEPENDABILITY

Consider amount of supervision required, punctuality, and attendance.

Requires constant supervision. Lacks follow through. Cannot be depended upon. Absent often or frequently tardy. Seldom reports in when absent.

Requires more than normal supervision. Lacks initiative. Is easily distracted. Absent or tardy rather frequently. Sometimes forgets to report in.

Requires normal supervision. Generally dependable. Follows instructions. Usually on time. Not often absent.

Requires minimum supervision. Good follow through. Follows instructions well and shows initiative. Good attendance record. Rarely absent or tardy.

Requires little or no supervision. Can always be depended upon. Follows instructions with great accuracy. Excellent attendance.

Unsatisfactory

Below Average

Average

Above Average

Outstanding

Comments:

DEALING WITH CO-WORKERS	Consider willingness to work with and help others. Ability to accept constructive criticism. Attitude toward, and cooperativeness with fellow employees and supervisors.			
Does no cooperate. Resents constructive criticism. Bad attitude. Gets along poorly with co-workers.	Reluctant to cooperate. Resists constructive criticism. Poor attitude. Often has problems with co-workers.	Is generally cooperative. Accepts constructive criticism. Generally good attitude. Few problems with co-workers.	Cooperates well. Responds to constructive criticism. Good attitude. Co-worker problems rare.	Very cooperative. Encourages constructive criticism. Excellent attitude. Admired by co-workers.
Unsatisfactory <input type="checkbox"/>	Below Average <input type="checkbox"/>	Average <input type="checkbox"/>	Above Average <input type="checkbox"/>	Outstanding <input type="checkbox"/>
Comments:				
DEALING WITH PUBLIC	Consider willingness to work with the public. Ability to handle complaints or disgruntled citizens. Ability to cause a positive effect on the public.			
Cannot deal with public. Often rude or inconsiderate. Projects bad image.	Has trouble dealing with public. Sometimes rude or inconsiderate. Projects poor image.	Deals with public adequately. Is generally pleasant and considerate. Projects acceptable image.	Is good in dealing with public. Is very pleasant and considerate. Projects good image.	Is excellent in dealing with public. Always pleasant and considerate. Projects excellent image.
Unsatisfactory <input type="checkbox"/>	Below Average <input type="checkbox"/>	Average <input type="checkbox"/>	Above Average <input type="checkbox"/>	Outstanding <input type="checkbox"/>
Comments:				

PERFORMANCE EVALUATION RECOMMENDATIONS

Employee Strengths:	
1.	
2.	
Areas Needing Improvement:	
1.	
2.	

Employee's Signature

Supervisor's Signature

City Manager's Signature

SPECIAL LEAVE REQUEST

Name: _____ Date: _____
Department: _____

Type of Leave/Absence: <input type="checkbox"/> Accrued Annual Leave <input type="checkbox"/> Accrued Sick Leave <input type="checkbox"/> Accrued Compensatory Leave <input type="checkbox"/> Leave Without Pay	Purpose: <input type="checkbox"/> Illness/Injury/Incapacitation of requesting employee <input type="checkbox"/> Medical/dental/optical examination of requesting employee <input type="checkbox"/> Care of family member, including medical/dental/optical examination of family member, or bereavement <input type="checkbox"/> Care of family member with a serious health condition <input type="checkbox"/> Other
--	---

Family and Medical Leave

If annual leave, sick leave, or leave without pay will be used under the Family and Medical Leave Act of 1993, please provide the following information:

I hereby invoke my entitlement to Family and Medical Leave for:

- Birth/Adoption/Foster Care
- Serious health condition of spouse, son, daughter, or parent
- Serious health condition of self

Contact human resources to obtain additional information about your entitlements and responsibilities under the Family and Medical Leave Act. Medical certification of a serious health condition may be required by your agency

Date and Time of Leave Requested

From _____ To _____

Certification: I hereby request leave/approved absence from duty as indicated above and certify that such leave/absence is requested for the purpose(s) indicated. I understand that I must comply with the City of Kingston's procedures for requesting leave/approved absence (and provide additional documentation, including medical certification, if required) and that falsification on this form may be grounds for disciplinary action, including termination.

Employee Signature: _____ Date: _____

Official Action on Request: Approved Disapproved

Reason for Disapproval: _____

Supervisor Signature: _____ Date: _____

“LEAVE BANK” Donation and Request Form

Employee's Name: _____	Date: _____
Employee Number: _____	
Employee's Address: _____	

I voluntarily wish to donate the following sick/vacation/comp time to either the City of Kingston's "LEAVE BANK" or to a specific recipient. I understand that once the leave has been transferred, it may not be restored or returned to my sick/vacation/comp time account.

Employee Signature: _____ Date: _____

I request to donate _____ hours of Sick Leave
I request to donate _____ hours of Vacation Leave
I request to donate _____ hours of Comp Leave

<input type="checkbox"/>	I request to donate this time to the City of Kingston "LEAVE BANK"
<input type="checkbox"/>	I request to donate this time to the following specific recipient: _____

Human Resource Manager Signature: _____ Date: _____

City Manager Signature: _____ Date: _____

REQUEST TO RECEIVE TIME FROM THE CITY OF KINGSTON "LEAVE BANK"

Employee's Name: _____	Date: _____
Employee's Number: _____	Department: _____
Employee's Address: _____	
<ul style="list-style-type: none">• Have you applied for Social Security Disability? _____• Are you currently approved for or receiving Social Security Disability? _____ If yes, effective date _____• Have you applied for retirement through TCRS? _____• Are you currently earning and/or receiving income from other employment? (<i>Excluding pensions</i>) _____	
<p>I provided my medical doctor/surgeon with a Medical Statement for the transfer of donated time to confirm my illness or injury as required by City of Kingston policy. I instructed my medical doctor/surgeon to send the completed form directly to the City of Kingston Human Resources Manager at the address listed at the top of the form. I understand that authorization for the transfer of donated time is subject to policy and approval by the City Manager based on the availability of time in the "LEAVE BANK".</p> <p>I certify that the information given in this request is correct and complete to the best of my knowledge. I am aware that should investigation show any material misrepresentation of facts, I will not be considered for donated time and I may be subject to disciplinary action up to and including termination. I hereby authorize the City of Kingston to make all necessary investigations concerning this application. I further authorize and request any records or information, including but not limited to medical, state retirement or social security disability, that is sought in connection with this request be provided to Human Resources.</p>	
Employee Signature: _____	Date: _____
Human Resources Signature: _____	Date: _____
City Manager Signature: _____	Date: _____

City of Kingston
Department of Human Resources
900 Waterford Place
Kingston, TN 37763
(865) 376-6584 ext. 1100, Fax: (865) 376-2325

MEDICAL STATEMENT FOR THE TRANSFER OF DONATED TIME

COMPLETED FORM MUST BE MAILED OR FAXED BY THE MEDICAL OFFICE DIRECTLY TO CITY OF KINGSTON HUMAN RESOURCES DEPT. AT THE ADDRESS ABOVE

AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the City of Kingston Human Resources to make all necessary investigation concerning this application. I further authorize the release of any records or information, including but not limited to medical, state retirement, or social security disability, that is sought in connection with this application.

Patient's Name and Birth Date (Please Print)

Patient's Signature (or legal representative)

Name of Medical Doctor/Surgeon (Please Print): _____

Form may be completed by the medical doctor/surgeon or nurse practitioner/physician's assistant

1. APPOINTMENT INFORMATION (Current Condition-May include office visit, date of surgery, or hospital visit)

(a) Date of visit for this completed form: _____

(b) Date of next visit: _____

2. DIAGNOSIS-Current medical condition(s) preventing employee from performing the duties of his/her job. (Be Specific-Please provide the ICD-9 code(s) and a written description)

Primary diagnosis: _____
ICD-9 _____ Description _____

Secondary diagnosis: _____
ICD-9 _____ Description _____

3. EXTENT OF DISABILITY FOR PATIENT'S REGULAR OCCUPATION:

a. Is the patient temporarily medically unable to perform any duties of his/her job? Yes _____ No _____
If yes, beginning date: _____ ending date: _____

b. When will the patient medically be able to return to work?
Approximate Date: _____ Indefinite: _____ Never: _____

Forms require the signature of the medical doctor/surgeon or a nurse practitioner/physician's assistant.

I hereby certify that the above information is true and correct and that the information provided is objective medical information relative to this patient's application for the transfer of donated time.

PLEASE PRINT:

Name: _____
(Medical Doctor/Surgeon Name and Title)

Signature and Title

Address: _____

Address: _____

Telephone #: () _____

Fax #: () _____

Date



EMPLOYEE REQUEST TO SELL ACCRUED VACATION / COMP TIME

Employees are afforded the opportunity to “sell back” accrued vacation or comp time. The city will buy back vacation days or comp time at 100% rate. Employees may sell no more than 40 hours of vacation OR Comp time per fiscal year. There will be no credit given to employees for time that has not yet been earned. This policy is not a guarantee of approval. All requests will be evaluated individually, and a determination will be made based on budgetary considerations at the time of request. All requests must be approved by the Department Head, Finance Director, and City Manager.

Employee's Name: _____

Date: _____

Employee Number: _____

Employee's Address _____

I request to cash out/sell _____ hours of accrued Vacation hours

I request to cash out/sell _____ hours of accrued Comp hours

Employee Signature: _____ Date: _____

Department Head Signature: _____ Date: _____

Finance Director Signature: _____ Date: _____

City Manager Signature: _____ Date: _____



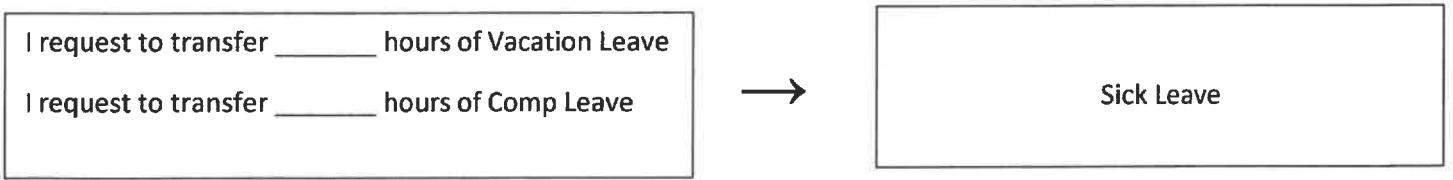
EMPLOYEE REQUEST TO TRANSFER ACCRUED TIME

Employee's Name: _____ Date: _____

Employee Number: _____

Employee's Address _____

I request to transfer accrued hours of vacation/comp time to my accrued sick time totals.



Employee Signature: _____ Date: _____

Human Resource Manager Signature: _____ Date: _____

City Manager Signature: _____ Date: _____



City of Kingston Accident Investigation Report

Employee Name: _____

Department: _____ Job Title: _____

Date of Injury: _____ Time: _____

Date Supervisor Notified: _____

Accident Details

Nature of Injury (include part of body injured, how it happened, location of accident and nature of accident):

List PPE and warning devices used:

List other PPE and warning devices that should have been used:

Outdoor Weather Conditions: clear rain snow sleet hot cold other _____

Explain the physical and environmental conditions at the time of accident (be very specific):

Personal factors (improper attitude, lack of knowledge or skills, slow reaction, fatigue, etc):

Was employee referred to your Posted Panel of Physicians? Yes _____ No _____

Was employee working alone or with a crew? _____

List names of crew: _____

Was employee injured:

On or in the right of way of street?

On public property?

In a vehicle?

By co-workers?

by horseplay?

by any personal factors?

Has any other employee ever had a similar accident?

What can be done to prevent a recurrence of this type of accident? _____

Witness Information

Name _____

Address _____ City _____ State _____ Zip _____

Phone _____

Name of Injured _____ Department _____

Date of Injury _____ Time of Injury _____

Location where injury occurred: _____

Did anyone else see the injury occur? Yes _____ No _____

If yes, please provide names: _____

Describe the injury and how it happened as observed by you (Attach additional pages, if necessary)

Signature of witness: _____ Date _____



CITY OF KINGSTON
CERTIFICATE OF RECORDS
DISPOSAL

Date of Request: _____

Department: _____

Name of Records: _____

Type of Records:

- Original
- Duplicate
- Combination

Inclusive Dates: _____

Inclusive Numbers: _____

Have any listed records been involved in a Public Records Request? _____
(To be completed by the records custodian)

Records Custodian	Date
-------------------	------

Department Head Date

City Manager Date

Method of Disposal: _____

Date of Disposal: _____

*****Please attach a detailed list of the records*****



TITLE VI COMPLIANCE PROGRAM LIMITED ENGLISH PROFICIENCY (LEP) POLICY

The City of Kingston will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of the City of Kingston is to ensure meaningful communication with persons that experience LEP and their authorized representatives. This policy also provides for communication of information contained in vital documents, including but not limited to, waivers of rights and consent forms. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served.

Language assistance will be provided through use of competent bilingual staff, interpreters, contracts or formal arrangements with organizations providing interpretation or translation services, or technology and telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

The City of Kingston will conduct a regular review of the language access needs of our services population, as well as update and monitor the implementation of this policy and these procedures as necessary.

PROCEDURES:

1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE

The City of Kingston will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards") or a translate application on a smart device to determine the language. In addition, when records are kept of past interactions with individuals or their family members, the language used to communicate with the LEP person will be included as part of the record.

2. OBTAINING A QUALIFIED INTERPRETER

David Bolling or Lyndsay Collins is responsible for:

- (a) Maintaining an accurate and current list showing the name, language, phone number and hours of availability of bilingual staff.
- (b) Contacting the appropriate bilingual staff member to interpret, in the event that an interpreter is needed, if an employee who speaks the needed language is available and qualified to interpret.
- (c) Obtaining an outside interpreter if a bilingual staff or staff interpreter is not available or does not speak the needed language.

Roane County High School foreign language teachers have agreed to help us if needed.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members and friends of the LEP person will not be used as interpreters unless specifically requested by that individual after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the department or agency. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person.

Children (e.g. persons under 18) will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

3. PROVIDING WRITTEN TRANSLATIONS

[Review factors found in State of Tennessee Title VI Policy Guidance #11-02 and U.S. Department of Justice Guidance on LEP dated June 18, 2002 to determine applicability of written translation requirements.]

- (a) When translation of vital documents is needed, each division or unit in the City of Kingston will submit documents for translation into frequently encountered languages to Human Resources. Original documents being submitted for translation will be in final, approved form.
- (b) The City of Kingston will set benchmarks for translation of vital documents into additional languages over time.

4. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION

On an ongoing basis, the City of Kingston will assess changes in demographics, types of services, or other needs that may require reevaluation of this policy and its procedures. In addition, the City of Kingston will regularly assess the efficiency of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for delivery of language assistance, complaint files by LEP persons, and feedback from the public and community organizations.

Title of Policy:	INTERNAL CONTROL	<u>Pg 1-20</u>
Section #:	Section 10	
Approval Date:	<u>January 14, 2025</u>	
Revision Date:		Appendix

The City of Kingston has the responsibility to its taxpayers, ratepayers, and constituents to be good stewards of public monies and property. In our efforts to serve the public as city officials or employees, the City established this Internal Control Policy using widely recognized best practices and state and federal directives.

State of Tennessee statutes require the Comptroller’s Office, Department of Audit to prescribe uniform accounting systems for entities that handle public funds. Those statutes require public officials to adopt and use the system designated by the Comptroller’s Office. The Tennessee Legislature amended TCA Section 9-2-102 in 2015 to require local governments to establish and maintain internal controls in accordance with guidance issued by the U.S. Government Accountability Office (GAO). The guidance is titled Standards for Internal Control in the Federal Government (Green Book). The Green Book follows the format developed by the Committee of Sponsoring Organizations (COSO) which has been the gold standard of internal control for all entities except the federal government for several years.

The internal control system consists of three objectives and 5 main components. Within the 5 components there are 17 principles that apply to certain components. The state considers the 5 components mandatory and the 17 principles are optional. The City of Kingston has chosen to only address the minimum requirements of the state in this policy; however, the 17 principles from the Green Book are presented below for informational purposes and to help explain the 5 components

THREE (3) OBJECTIVES OF INTERNAL CONTROLS:

1. Reporting – reliability
2. Operations – effective and efficient
3. Compliance – compliant with applicable laws, regulations, contracts and grant agreements

FIVE (5) MAIN COMPONENTS OF INTERNAL CONTROLS THAT ARE REQUIRED TO BE ADDRESSED:

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and Communication
5. Monitoring

The purpose of this policy is to ensure that the objectives of reporting and compliance are established. (The operational objective will be addressed at a later time.) The policies to achieve the objectives are derived from various financial best practices, state and federal laws, and regulations and policies may be developed to suit specific needs of city functions and resources. Detailed procedures are then developed and documented as a means for cities to comply with its established policies.

OV2.09 THE GREEN BOOK

The Five Components and 17 Principles of Internal Control:**CONTROL ENVIRONMENT:**

1. The oversight body and management should demonstrate a commitment to integrity and ethical values.
2. The oversight body should oversee the entity's internal control system.
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.

RISK ASSESSMENT:

6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.

CONTROL ACTIVITIES:

10. Management should design control activities to achieve objectives and respond to risks.
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.
12. Management should implement control activities through policies.

INFORMATION AND COMMUNICATION:

13. Management should use quality information to achieve the entity's objectives.
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.

MONITORING:

16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.
17. Management should remediate identified internal control deficiencies on a timely basis.

Source: GAO. GAO-14-704G.

CONSIDERATIONS IN DEVELOPMENT OF INTERNAL CONTROLS

Internal control is defined as a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance the city's objectives will be achieved. Before developing its Internal Control System (ICS), the city as a whole and each department should determine its mission, strategic goals, and objectives, and then formulate a plan to achieve those objectives. The internal controls are policies and procedures put in place to help achieve those goals and objectives. By describing how a city/department expects to meet its various goals and objectives by using compensating controls to minimize risk, the entire city becomes more aware of expectations. The City's internal control plan will be unique; however, it must be based on polices included in this guide which incorporates or references to other comprehensive state, federal or standard setting agency polices that have been adopted. (Exhibits of excerpts from the Comptroller's Audit Manual listing TCA codes and Attorney General Opinions related to local governments are at the end of this manual).

Consistent monitoring of all components will ensure that the ICS is updated whenever changing conditions justify.

Since a city's/department's policies and procedures are the control activities for its internal control plans, it is important that they be reviewed in conjunction with the plans and referenced where appropriate. Everyone in the city has a responsibility to ensure that internal controls operate effectively.

As directed by T.C.A. 9-18-102 (a) and in accordance with the guidance issued by Tennessee Comptroller's Office, the city has adopted this internal control manual. It is critical to note that the development and operation of the internal control system involves everyone in the organization. As such, management must ensure that the manual is shared with all of its employees. The manual is a work in process and will be assessed periodically.

The following sections document the 5 components of internal control and significant financial and compliance areas that are deemed high risk.

3.1 THE GREEN BOOK STATES DOCUMENTATION IS MANAGEMENT'S RESPONSIBILITY:

- Management develops and maintains documentation of its internal control system.
- Effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties, such as external auditors.

FIVE COMPONENTS OF INTERNAL CONTROL

1. CONTROL ENVIRONMENT

Overview

The control environment is the foundation for **all** other components of internal control, providing discipline and structure. Moreover, management establishes the tone at the top regarding the importance of internal control and expected standards of conduct, and reinforces expectations at various levels. Control environment factors include the integrity, ethical values, and competence of the city's personnel; the way management assigns authority and responsibility, and organizes and develops its personnel; and the attention and direction provided by the governing body.

OBJECTIVES

1. The governing body and management should conduct business with integrity and ethical behavior.
2. Provide direction and oversight for city's internal control system.
3. Hire qualified and competent management.
4. Establish structure, authority and responsibility and hold individuals accountable for internal control responsibilities.

POLICIES

- A conflict / business interest policy has been adopted by the governing board and management and is provided to all employees for review.
- A Professional Employee Conduct has been adopted by the governing board and management and is provided to all employees for review.
- The governing body through management has adopted a personnel manual which is provided to all employees along with a copy of their job descriptions with minimum job requirements.
- The governing body also uses the budget process as a means of oversight with department heads.
- Organizational charts are reviewed for needed changes in regards to authority and responsibility.

PROCEDURES

- If there are any conflicts documented or any conflicts suspected but not documented the cases should be discussed with the City Manager.
- The City Manager or Department head will schedule a meeting with the employee in question to discuss the conflict and a resolution will be made.
- Hiring procedures are conducted with the HR Coordinator and the hiring department head. Once a candidate is chosen, a new hire orientation is conducted by the HR Coordinator detailing personnel policy which includes ethics and code of conduct and procedures. A detailed job description with minimum requirements is provided to the new hire.
- Hiring procedures are detailed in the manual and prohibit hiring anyone who does not meet the minimum job requirements.
- All positions have detailed job descriptions which identify the immediate supervisor and explains the responsibilities of the position.
- When an employee leaves, an exit interview is optional.
- City organizational charts were developed based on the city structure required in the city charter.

- The charts are reviewed periodically as positions are added or changed to determine if the reporting structure, authority, and responsibility documented in the chart is still accurate.
- The Finance Director reviews the annual audit for internal controls findings. A corrective action plan is to be developed and submitted.
- In the first week in March, the Finance Director sends all department heads the budget worksheets for the up-coming fiscal year. The budgets are due back to the Finance Director upon date of request.
- The Finance Director estimates revenues using the past 3 years collection history and current growth indicators along with any current information relevant to the revenue streams. The Finance Director will also estimate all the appropriations not otherwise assigned to a department head and enter the department head's budgets.
- The first budget workshop is a presentation by the City Manager and the Finance Director of the individual respective departmental budgets.
- The Finance Director makes the approved changes to the proposed budget and identifies problem areas that still exist. The City Manager and Finance Director will make suggested changes to present to the governing body.
- Once the final budget is determined, the Finance Director will prepare the budget ordinance for its first reading. A Special Called meeting may be required for 2 readings to take place for the budget passing before the start of the fiscal year.
- The required public notice will be placed in the local newspaper 7 days after the first ordinance reading and must be placed no less than 10 days prior to second (final) reading.

2. Risk Assessment

Overview

City officials and management assess risk of operations continually. The city has chosen to transfer the most common types of risk through the purchase of the following types of insurance:

- Property and Casualty
- Liability
- Errors and Omissions
- Worker Compensation

There are risks we cannot anticipate or know about, and as it relates to financial and compliance issues, we have assessed the following areas and identified certain risks that we feel need to be addressed by the development of internal control policies and procedures. Internal controls will not eliminate all risk, but will help reduce risk to gain reasonable assurance that reporting and compliance objectives are being met.

Objectives

1. Collections are complete, timely and accurate.
2. Disbursements are for a valid city purpose and properly recorded.
3. Assets are properly safeguarded.
4. City is in compliance with contractual, local, state and federal laws and regulations.

Risk

1. Collections could be lost or misappropriated.
2. Collections could be recorded improperly.
3. Collections may not be deposited in the bank and recorded timely.
4. Disbursements could be unauthorized.
5. Disbursements could be for personal items.
6. Disbursements could be made for items never received.
7. Bank balances may be inaccurate due to failure to reconcile bank accounts.
8. Capital assets or inventory items could be missing.
9. Inventory is not available when needed.
10. Bank balances may be inaccurate due to failure to reconcile bank accounts.
11. Grant funds could be spent for unallowable items.
12. Grant rules may not be followed which could result in having to return federal funds.
13. Federal reporting requirements were not met.

The significant areas of risk are identified above and policies and procedures will be documented in the next section to explain how the city plans to put internal controls in place to help reduce some of the risks associated with these areas of operations.

3. Control Activities**Overview**

This section is where the detailed procedures will be documented. The objectives, policies and implemented procedures will be described for each of the significant areas identified in the Risk Assessment section.

General Collections/ACH/Tax Collections/Utility Collections**Objectives**

1. Collections are complete, timely and accurate.
2. Collections are safeguarded.
3. Collections should be recorded accurately and timely in the accounting system.’

Policies

1. A receipt can be issued for each collection made.
2. Each cashier will have their own cash drawer.
3. Two people will count down each cash drawer daily and sign the report.
4. Employees are prohibited from working from another person’s cash drawer without approval.
5. No checks will be cashed from the cash drawers.
6. All cash drawers will be closed out and counted daily.
7. All funds will be deposited with in the 3-day government requirement or daily.
8. Any monies collected at decentralized locations must be submitted to City Hall daily for receipting.
9. There will be no checks or cash left out of a deposit. If there is a question as to how it should be processed, it will be deposited as miscellaneous revenue in the General Fund to be resolved later.
10. All cash drawers are locked when unattended.

11. All cash drawers are locked in the vault during closed hours.
12. Access to the vault is always restricted.
13. Deposit bag is secured until transported to the bank.
14. At no time will cash be left out in the open unattended.
15. Employees are prohibited from comingling city assets with personal assets.
16. Chart of accounts codes will be reviewed with cashiers on a regular basis.
17. All daily collection reports are posted to the general ledger by the Accounting Clerk.
18. All accounting system updates and changes are discussed with office staff and appropriate changes made if necessary.
19. Reconciliations are performed monthly under the direction of the Finance Director.

Procedures

- The city has 2 cashier clerks. These Clerks are general cashiers and collect everything including utility payments, tax payments and other general revenues for receipting.
- Two people will be involved in the receipting process and all deposits must be counted by two people and have the initials of the depositor and the verifier on all supporting documents.
- Cashiers immediately stamp all checks “for deposit only” and issue receipts for collections and retained with our daily cash report. Receipt lists date, amount, payer, proper accounting code, cash or check and is signed by cashier. A copy can be issued to every customer upon request.
- The Senior Utility Billing Clerk will count down the cash drawers and make daily deposits for all utility payments. In the absence of the Senior Utility Billing Clerk, each Cashier clerk will count down each other’s drawers and make the deposit with the assistance of the Accounting Clerk.
- Tax receivables are accurate and recorded in a timely manner and reconciled to the tax records.
- All collections are recorded in the G/L daily.
- Daily cash reports are given to the accounting clerk who makes up the bank deposits.
- Deposits are taken securely and safely to the bank institution daily.
- Daily cash reports and bank deposit records are given to the Accounting Clerk.
- The Finance Director will oversee the reconciliation of the daily cash reports, deposit slips, and bank statements on a monthly basis. Dates will be compared to deposit records for timeliness. Receipts will be reviewed for accurate amounts, coding, proper signature and other required information.
- The Finance Director will periodically perform surprise cash counts to ensure there are no personal checks being held in the cash drawers and to ensure the drawers are in balance.
- Individual receipts issued at decentralized locations will be reconciled to the city hall receipt to determine if receipts are being turned in daily and intact.
- The vault should be unlocked each morning, it may be left unlocked during the day. Once all cash drawers are counted down, they should be placed in the vault and locked for the night and the weekend.
- All cash drawers will be closed and counted away from the front desk and will be done one at a time so there is always one cashier to take payments.
- All computer passwords will be changed periodically and access to collection, adjustment, voiding and other administrative functions will be restricted and checked regularly.
- Computer software support change restrictions/control levels are managed by Department Head/management in consultation with the IT department.
- All revenue codes used by the city are kept with each cashier. The Finance Director will notify the cashiers if an account code is changed or added.

- The Finance Director will notify the office staff when computer updates are scheduled. Staff is to report any problems to the Finance Director immediately.

City Courts

Objectives

- Collections are made prior to Court date for Cash Bond Forfeitures.
- Collect court cost and court fines during and after the court proceeding.
- Submit unsatisfied cases to our current collection agency within a reasonable time frame.

Policies

- All fines, penalties and costs shall be imposed and recorded by the municipal court clerk on a municipal docket in open court.
- Pursuant to Chapter 9, Section 9.01 of the Charter for Kingston, Tennessee, it is ordered the city judge shall have jurisdiction in and over all cases for the violation of and all cases arising under the laws and ordinances of the city.
- Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided that city court is in session or the city judge is reasonably available.

Procedures

- A law is allegedly broken and officers fill out citations providing citizens a copy and then it is submitted to the court clerk.
- Citations are submitted into the court software system and filed appropriately.
- Payments are collected by the Court Clerk daily and then processed.
- Payments are collected during and after court proceedings and processed.
- All processed payments are submitted to the Finance office for receipting where the funds are then deposited and posted to the General Ledger.

General Disbursements/Drafts

Objectives

- Disbursements are for a valid city purpose and necessary.
- Disbursements are timely.
- Disbursements are accurately coded and recorded in the accounting system.
- Disbursements are legally appropriated.

Policies

- The city has adopted purchasing policies that comply with state law.
- Various levels of authority have been assigned.
- Purchase orders and packing slips are matched and sent to city hall for payment as soon as possible.
- Checks are written twice each month to ensure invoices are paid timely.

- All checks require two signatures.
- All checks have documentation attached to be reviewed for accuracy at the time of signing.

Procedures

- The finance office uses a computerized accounts payable system.
- All purchase orders are coded by purchaser and verified by the accounts payable clerk.
- Invoices are entered in the accounts payable system daily.
- The finance director reviews the accounts payable report prior to the check run.
- Budget availability is verified by the Finance Director prior to check run.

Payroll disbursements and payroll liabilities

Objectives

- Ensure all employees are compensated for time worked and accrued benefits received.
- Ensure all supervisors have approved employees time accurately through our time keeping software.
- Ensure vacation, sick and comp time are all balanced quarterly for accrual accuracy.
- Ensure it is submitted to the bank by daily deadline.
- Ensure all payroll taxes are submitted via ETPS immediately following payroll.
- Ensure retirement deductions are submitted following payroll.
- Ensure all garnishments are submitted.
- Ensure quarterly 941 is submitted to the IRS and all Unemployment files are submitted.

Policies

- Payroll is submitted biweekly.
- ACH direct deposit is required for paychecks.
- Procedures

Procedures

- Time keeping is dually managed by the Human Resources and the Payroll Clerk.
- The Payroll Clerk processes payroll biweekly and submits to the banking institute.
- Payroll direct deposit are verified by a second employee with the banking institute under the supervision of the Finance Director.
- The Payroll Clerk calculates all payroll taxes and makes the ETPS deposit with the IRS, performs payroll tax journal entries and banking transfers under the supervision of the Finance Director.
- The Payroll Clerk submits retirement deductions to the Retirement vendor under the supervision of the Finance Director.

Safeguarding of Assets

Objectives

1. Ensure city assets are properly valued and protected.
2. Ensure Cash, Accounts Receivable and other asset accounts are reconciled.
3. Ensure investments are safe and in accordance with adopted investment policy.

4. Ensure city assets are protected against loss, misappropriation or theft.
5. Ensure inventory items are available when needed for use.

Policies

1. All bank account statements (checking, savings, investments, etc.) are reconciled to the municipal general ledger accounts within 15 days of the date of the statement.
2. Accounts receivable subsidiary ledgers are reconciled to original billings and amounts collected.
3. All bank accounts are held in financial institutions under the municipality's name.
4. Inventory records contain enough information to readily identify corresponding capital assets. Capital assets are tagged or otherwise identified during a physical inventory that is performed annually.
5. Proper safeguards are in place to prevent theft or loss of assets.
6. No reconciling items will be carried forward more than 60 days.

Procedures

- The Accounting Clerk reconciles the bank statements monthly under the supervision of the Finance Director.
- The Finance Director verifies and signs off on all bank reconciliations monthly.
- All department heads are given a list of all fixed assets for their department annually for their review. These assets include land, buildings, mobile equipment and vehicles. This physical inventory is conducted annually.

Compliance

Objectives

1. Ensure that state law regarding the issuance of debt is followed.
2. Ensure that state and federal grant regulations are understood and followed.

Policies

1. The city had adopted a debt management policy in accordance with state requirements.
2. The Finance Director is well versed on the state requirements for issuing debt.
3. The Grant Administrator must notify the Finance Director when an application for 100% grant funding is submitted and subsequently awarded. All grants with matching requirements must be approved by the governing body prior to submission of application.
4. Once awarded, the Finance Director is to be notified of the project budget and detailed expenditure requirements of the grantor agency.
5. The Grant Administrator must provide the Finance Director of whether a grant is state, federal, or independent funds and when the receiving of funds will take place.

Procedures

- Telecommunication must be sent to the City Manager and Finance Director to make them aware of Grant application submission.
- Grants requiring a match must be approved by the governing body prior to application submission, unless the grant submission requires the passing of a resolution.
- Once a grant has been awarded, any contracts must be signed by the Mayor.
- Detailed expenditures listings are submitted based on grant requirements.

4. Information and Communication

Overview

Management has the responsibility to adequately communicate and provide information to both internal and external parties. It is important that employees know the objectives, policies and procedures management has established and what the expectations are for internal controls. External stakeholders also seek information regarding objectives and reliable financial information.

Objectives

1. Necessary quality information for achieving the entity's objectives is available and used.
2. Necessary quality information for achieving the entity's objectives are internally and externally communicated by management.

Policies

1. Information maintained in a format should be communicated in that same format. For example, if the general ledger is maintained on computer, the monthly budget to actual reports should be provided through a computer-generated report from that software package.
2. Reliable and accurate quality information from municipal internal sources must be communicated to the people who need it in a timely and useful format.
3. Because the credibility of the municipality, its governing body, and its public officials is at stake whenever information is released to outside parties, management should be confident the information being released is accurate and the release is in compliance with policies and procedures

Procedures

- Review and document the information requirements to achieve key objectives and address the risks of the government.
- Review and document changes that occur in the local government's objectives and the related changes in information requirements.
- Identify and evaluate the reliability and timeliness of relevant data from both internal and external sources.
- Review and evaluate whether data has been processed into quality information that allows management to make informed decisions and evaluate whether the local government is achieving its objectives.
- Management clearly defines the lines of communication through policy manuals and organizational charts.
- Management has communicated the types of information required to achieve objectives and address risks.
- All internal control documents and related reports will be available to all staff in an appropriate method based on confidentiality and relevance to job responsibilities.
- The appropriate information delivery system has been determined (e.g. email, written memo, staff meetings, etc.) for changes and updates.
- Management should develop policies and procedures for the redacting of information when requested under the open records statutes

5. Monitoring

Overview

The internal control system changes as technology, staff, objectives and policies change. Management is charged with continually monitoring the internal control system to determine if it is operating as it was designed to do and to ensure the controls are being followed.

Objectives

1. To practice activities to monitor the internal control system and evaluate the results.
2. To address deficiencies noted in the internal control system in a timely manner.

Policies

1. To ensure that internal controls do not deteriorate and continue to work as designed over time, an annual risk assessment will be conducted by municipal management.
2. To establish more efficient and effective operations over time.
3. To ensure accurate and reliable financial information is used in decision-making.

Procedures

- Evaluate and document the current state of the internal control system and document the differences between the criteria of the design and the current condition of internal control, for purposes of establishing a baseline.
- Determine whether to change the design of internal control or implement corrective actions to improve the operating effectiveness of internal control for differences that exist.
- Monitor internal control through built in monitoring activities and periodic separate evaluations and document the results.
- Evaluate differences to determine if 1) changes in internal control have occurred but have not been documented, 2) internal control has not been properly implemented, or 3) internal control design changes are needed.
- Department Heads can review cash drawers and deposits randomly to ensure policies are being followed, such as no cashing of personal checks, no borrowing from cash drawer and the makeup of cash vs checks is being documented.
- All accounts with financial institutions (checking, savings, investment, etc.) should be reconciled to the general ledger within 15 days of receipt of any statement from the financial institution.
- The above reconciliation will include a listing of outstanding checks and will be reviewed by the Finance Director or designee.
- Reconciling items on the above reconciliation will not be carried for more than 60 days.
- Reports comparing actual to budget amounts for revenues and expenditures (expenses) will be generated monthly and reviewed by the management or their designee. Those in a position of authority include, but are not limited to, the Accounting Clerk, CMFO, Finance Director and City Manager.

EXHIBIT A-EXCERPT OF LOCAL GOVERNMENT RELATED LAWS FROM THE COMPTROLLER'S AUDIT MANUAL

Laws and Regulations - Section APP.D
June 2015

4. Selected State Laws Affecting Municipalities

Municipalities must comply with federal, state, and local laws and regulations and charter and contract requirements. When determining which laws and regulations have a material direct or indirect impact on the financial statements, both quantitative and qualitative aspects must be considered. No one source summarizes all the applicable laws and regulations. The following list of references should be used only as a guideline in determining which state laws affect the municipality and should not be considered a comprehensive list of compliance features. These references do not necessarily represent the most significant laws, but represent areas in which recurring questions have arisen.

Many municipalities have "Private Act" charters. The Private Acts of the State of Tennessee should be reviewed for these municipalities to assess compliance requirements.

Selected Tennessee Code Annotated References for Municipalities

Charters

Section 6-1-101	Mayor - Alderman
Section 6-18-101	City Manager - Commission
Section 6-30-101	Modified City Manager - Council

Books and Records

Section 6-56-201	Municipal budget law of 1982
Section 8-44-104	Minutes required, open for public inspection
Section 9-2-102	Uniform accounting system
Section 9-2-102	Books closed within two (2) months after fiscal year end <i>(GO TO DETAILED GUIDANCE – APP.D-9)</i>
Section 9-2-103 – 104	Consecutively prenumbered receipts required
Section 9-2-106	Violation of receipt requirements is a Class C misdemeanor
Section 9-18-102(a)	Government to establish internal controls (effective 6-30-2016)
Section 39-14-130	Destruction of valuable papers with intent to defraud
Section 39-16-504	Destruction of and tampering with governmental records
Section 66-29-113	Reporting abandoned property

Audits and Other Regulatory Reporting to Local Government Audit

Section 4-30-101	Local Government Electronic Technology Act of 2009
Section 6-54-903	Travel Policies – Filing Requirements
Section 6-56-105	Audits of municipalities
Section 8-4-109	Audits of governmental entities, Comptroller authorized
Section 8-4-115	Audit of Standardized Booking Procedures
Section 8-4-501 – 505	Local Government Instances of Fraud Reporting Act

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Audits and Other Regulatory Reporting to Local Government Audit (continued)

Section 9-3-212	Duty to order and pay for audits
Section 9-3-405	Audit Committees
Section 12-9-101 – 112	Local Government Joint Venture Entity Reporting (see Section K of this manual for additional information)
Section 47-10-101 – 103	Uniform Electronic Transactions (audit contract and audit report)
Section 47-10-119	Filing of pre-implementation statement and post-implementation review for electronic business systems that provide for electronic records of signatures and/or authorizations
Section 54-4-203	Request to combine State Street Aid with General Fund
Section 68-221-1012	Reporting water loss

Taxes

Section 6-55-101	Collection and payment of tax
Section 6-55-201	Sale of real estate for delinquency
Section 6-55-301	Privilege tax
Section 8-21-107	Payment (receipt) of fees, fines, costs, etc. by credit card
Section 9-1-108	Collection of taxes with credit or debit card
Section 57-4-306	Mixed drink tax allocation of funds
Section 67-5-2005	Delinquent municipal real property tax certified to county trustees
Section 67-5-2404	Delivery of delinquent tax list to attorney

Purchasing

Section 6-54-107	Officers' interest in municipal contracts prohibited
Section 6-56-301	Municipal purchasing law
Section 12-2-407	Sale of surplus property to governmental entities and not-for-profit corporations
Section 12-3-1201	Purchases for local governmental units (by department of general services)
Section 12-3-1209	Contracts with professional persons
Section 12-4-101	Personal interest of officers prohibited
Section 12-4-107	Contracts for professional services - engineering
Section 39-16-105	Buying and selling in regard to offices held or elected to

Investing and Banking

Section 6-56-106	Authorized investments
Section 6-56-110	Deposits to be secured by collateral
Section 9-1-107	Investments—deposits exceeding insurance limits
Section 9-4-101	Collateral

Debt

Section 9-21-408	Interfund loans
Section 9-21-601	Capital outlay notes
Section 9-21-903	Refunding bond issues

Disbursements

Section 6-54-111	Appropriation of funds for nonprofit organizations <i>(GO TO LAW SUMMARY – APP.D-15)</i>
Section 6-54-901	Reimbursement for expenses incident to holding office
Section 6-56-111	Deposit within three working days–petty cash fund
Section 6-56-111(c)	Use of consecutively prenumbered checks
Section 6-56-112	Expenditures for lawful municipal purpose
Section 54-4-204	State street aid: Purposes for expending funds; Accounting

Deficits and Unaccounted for Water

Section 68-221-1010	Report filed with Water and Wastewater Financing Board
Section 68-221-1012	Unaccounted for water

Landfills/Solid Waste

Section 68-211-835(g)	Solid Waste Disposal Fees
Section 68-211-874	Accounting

Municipal Utilities

Section 7-34-115	Disposition of revenue
Section 7-35-401	Sewers and waterworks–authority granted
Section 7-39-302	Municipal gas companies
Section 7-52-101	Municipal electric plant law
Section 7-52-401	Telecommunications Services
Section 7-52-601	Cable Television, Internet and Related Services
Sections 7-39-404, 7-52-118, 7-52-304, 7-52-404, and 7-52-606	In-lieu of tax payments

Police and City Courts

Section 8-4-115	Standardized procedures for booking of arrestees
Section 18-1-105	Court Clerk – Duties
Section 18-1-206	Disposal of physical evidence
Section 39-16-609	Failure to appear

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Police and City Courts (continued)

Section 39-17-420	Drug control fines and forfeitures, allowed use of drug funds, Comptroller’s guidelines must be followed for confidential expenditures–fingerprinting equipment
Section 39-17-428	Mandatory minimum fines–allocation of proceeds
Section 39-17-505	Possession of gambling device or record–forfeiture
Section 39-17-1317	Confiscation and disposition of confiscated weapons
Section 39-17-1318	New serial numbers for confiscated firearms
Section 40-33-201	Application (procedures in confiscation – general)
Section 40-35-313	Expungement from official records
Section 53-11-201	Procedure in confiscation
Section 53-11-204	Disposition of proceeds
Section 53-11-415	Special revenue account for drug fund
Section 53-11-451	Goods subject to forfeiture –seizure–disposition
Section 55-8-198	Citations based on surveillance cameras
Section 55-10-204	Illegal cancellation of traffic citations
Section 55-10-207	Electronic citation fees – special revenue fund
Section 55-10-208	Uniform traffic citation form
Section 55-10-303	Disposition of collections
Section 55-10-306	Record of traffic cases–report of convictions to department
Section 55-10-403	Forfeiture of vehicles (DUI)
Section 55-16-101	Report of unclaimed vehicles
Section 55-50-502	Suspension of licenses
Section 55-50-503	Surrender of license

Criminal Statutes

Section 39-11-106	Definitions (criminal offenses)
Section 39-14-104	Theft of services
Section 39-16-401	Definitions for public misconduct offenses
Section 39-16-402	Official misconduct
Section 39-16-403	Official oppression
Section 39-16-501	Definitions for interference with government operations offenses
Section 39-16-503	Tampering with or fabricating evidence
Section 40-39-201	Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004

Other

Section 4-4-108	Blanket surety bond required
Section 6-21-104 - 105	Surety bond required – City Manager-Commissioner Charter
Section 6-35-411	Surety bond required – Modified City Manager-Council Charter

Other (continued)

Section 6-51-121	Recording of annexation ordinance or resolution by annexing municipality
Section 6-56-401 et al	Municipal Finance Officer Certification and Education Act of 2007
Section 6-56-407	Penalty for noncompliance with Municipal Finance Officer Certification and Education Act of 2007
Section 8-44-101	Sunshine Law – Policy
Section 8-44-102	Open meetings
Section 8-44-103	Notice of public meetings
Section 9-1-109	Penalty for worthless checks/money orders
Section 9-3-504	Pension Funding Policies
Section 9-21-130	Guidelines and rules and regulations relating to contracts and agreements authorized. <i>(GO TO SUMMARY – APP.D-9)</i>
Section 10-7-503	Records open to public inspection
Sections 6-54-107 & 12-4-101	Conflict of interest
Section 62-2-107	Employment of licensees in public works

5. Municipal Donations to Nonprofit Organizations

Section 6-54-111, *Tennessee Code Annotated*, as amended, authorizes a municipality's governing body to appropriate funds for the financial aid of any nonprofit charitable organization that provides year-round services benefiting the general welfare of the residents of the municipality or any nonprofit civic organization working to maintain and increase employment opportunities in the municipality. This section also provides for the Comptroller of the Treasury to establish standard procedures to assist the municipal governing body in the disposition of funds so appropriated. The auditor should consider whether the municipality has complied with the following laws and rules:

1. A municipality may appropriate funds for only those nonprofit charitable organizations that provide year-round services benefiting the general welfare of the residents of the municipality, or any nonprofit civic organization classified under Sections 501(c)(4) or (6) of the Internal Revenue Code working to maintain and increase employment opportunities in the municipality.
2. Municipal payments to nonprofit organizations shall be limited to the amounts appropriated for such purposes and in keeping with the municipality's guidelines for how the appropriated funds may be spent.
3. The municipality shall require that each nonprofit organization receiving financial assistance from the municipality file with the disbursing official of the municipality a copy of an annual audit* of its business affairs and transactions and the proposed use of the contributed funds.
4. For appropriations to nonprofit civic organizations, notices shall be published in a newspaper of general circulation in the municipality of the intent to make an appropriation, specifying the intended amount and purpose.

* Attorney General Opinion number 91-52, addresses the requirement for an annual audit. The basis for the opinion indicates that an annual audit as used in this statute does not mean an audit conducted by an independent certified public accountant.

7. Selected Attorney General Opinions

The State Attorney General issues written legal opinions to certain state officials upon request. The Attorney General is required to provide written legal opinions to "the governor, secretary of state, state treasurer, comptroller of the treasury, members of the general assembly and other state officials...in the discharge of their official duties." 8-6-109 (b)(6), *Tennessee Code Annotated*.

The following is a summary of select opinions of interest;

Books and Records

<u>Date</u>	<u>Opinion Number</u>	<u>Description</u>
08/16/89	89-102	Accounting and auditing standards for local housing authorities
11/28/89	U89-134	Vending machines and pay telephone operations
08/13/90	U90-114	Application of open meetings act to city council interviews with applicants for city manager position
12/23/91	U91-164	Publication of official notices

Audit

<u>Date</u>	<u>Opinion Number</u>	<u>Description</u>
05/29/91	91-52	Filing annual audit under Section 6-54-111(c), <i>Tennessee Code Annotated</i>

Bids

<u>Date</u>	<u>Opinion Number</u>	<u>Description</u>
08/23/13	13-065	Requirement for local governments to seek competitive bids for liability insurance

Disbursements

<u>Date</u>	<u>Opinion Number</u>	<u>Description</u>
11/04/80	None	In-lieu-of-tax payments by a municipality's wholly-owned utility
10/27/88	88-194	Use of state street aid funds at the intersection

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		of a state highway and a municipal street
11/09/89	U89-130	Providing municipal services to residents on a private street
02/06/90	90-12	Spouse travel expenses
10/12/90	U90-149	Donations to nonprofit charitable and civic organizations

Disbursements (Continued)

09/01/92	U92-100	Municipal utilities and utility revenues
03/04/92	93-18	Loan by municipality to county industrial development corporation
06/11/93	U93-63	Conflict of interest/employee serving as mayor
04/08/94	U94-070	Installation of water lines in a private development
03/06/95	U95-021	Municipality's authority to engage in development of a residential subdivision

Police and City Courts

<u>Date</u>	<u>Opinion Number</u>	<u>Description</u>
11/01/88	88-195	Disposition of confiscated weapons, Section 39-6-1708, <i>Tennessee Code Annotated</i>
10/22/90	90-98	Law enforcement agencies' authority to use drug funds to acquire and install satellite communication equipment and pay officer tuition fees for drug enforcement training
10/28/91	91-85	Disposition of criminal fines
05/28/92	92-45	Use of drug fines for drug education programs
10/08/92	U92-121	Deposit of fines under Section 39-17-428, <i>Tennessee Code Annotated</i>
11/26/08	08-179	Issuance of traffic citations based on evidence obtained from a surveillance camera

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Title of Policy:	PURCHASING GUIDELINES	<u>Pg 1-14</u>
Section #:	Section 10	
Approval Date:	<u>January 14, 2025</u>	
Revision Date:		Appendix

Introduction:

Tennessee has many general laws that govern purchasing by municipalities including the 1983 Municipal Purchasing Law, the Competitive Sealed Proposals provisions under T.C.A. 12-3-1207, the Contracts for Professional Services provisions under T.C.A. 12-3-1209 and 12-4-107, the interlocal Cooperation Act, the Iran Divestment Act, etc.

The Municipal Purchasing Law of 1983 is contained in title 6, chapter 56, part 3 of the Tennessee Code and established minimum requirements for all cities that do not have charter provisions governing competitive bidding and purchasing

The Kingston City Charter states the following:

Section 5.07. Powers with respect to purchasing and making public improvements.

Except as otherwise provided, the manager shall be responsible for all city purchasing but he may delegate his duty to any subordinate appointed by him. Competitive prices for all purchases and public improvement shall be obtained whenever practicable and in accordance with regulations established by ordinance, and the purchase made from or the contract award to the lowest possible bidder, provided that the City shall have the power to reject any and all bids. The Council shall, by ordinance, establish the amount which the manager may expend with regard to purchases or contracts for public improvements, provided said amount shall not exceed the bid limit required by general law. Formal sealed bids shall be obtained in all transactions involving an expenditure which exceeds the amount so set by the Council and the transaction shall be evidenced by written contract submitted and approved by the Council; provided, that in cases where the Council indicated by formal resolution based upon the written recommendation of the manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts. The Council may also authorize the making of public improvements or the performing of any other city work by a city department or agency without competitive bidding. Purchasing and contract procedures not prescribed by the Charter or other law may be established by ordinance.

On June 13, 2023 Kingston City Council passed on second reading Ordinance 23-05-09-05, an ordinance to repeal Ordinance 13-2-12 and to establish the amount which the city manager may expend with regard to purchases and contracts for general public improvements at \$25,000.

ORDINANCE 23-05-09-05

AN ORDINANCE TO REPEAL ORDINANCE 13-2-12 AND TO ESTABLISH THE AMOUNT WHICH THE CITY MANAGER MAY EXPEND WITH REGARD TO PURCHASES AND CONTRACTS FOR GENERAL PUBLIC IMPROVEMENTS AT \$25,000

WHEREAS, the City Manager has heretofore been authorized to make expenditures without specific Council approval for general public improvements in amounts not to exceed \$15,000; and,

WHEREAS, the City Council of the City of Kingston believes that it would be in the best interest of the City of Kingston to increase this amount to \$25,000

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KINGSTON THAT, pursuant to the provisions of Section 5.07 of the Kingston City Charter:

Section 1: The authority of the City Manager to expend up to \$25,000 in connection with any purchases or contracts for public improvement without specific Council approval.

This ordinance shall take effect upon final passage, the public welfare requiring it.



Mayor

ATTEST:


City Clerk

Passed first reading: May 9, 2023
Passed second reading: June 13, 2023

Competitive Bidding:

The authority contained in the Municipal Purchasing Law for increasing competitive thresholds was preempted in 2022 by T.C.A. 12-3-1212, and in 2024 the General Assembly clarified this preemption by amending the Municipal Purchasing Law to cite the maximum thresholds established pursuant to T.C.A. 12-3-1212. This statutory section allows all municipalities to establish a bid threshold of up to \$25, 000 or, under certain conditions, up to \$50,000 by ordinance.

On January 10, 2023 Kingston City Council passed on second reading Ordinance 22-12-13-01, an ordinance to amend the Kingston Municipal Code to increase the competitive bidding amount from \$25,000 to \$50,000.

ORDINANCE NO. 22-12-13-01

AN ORDINANCE TO AMEND THE KINGSTON MUNICIPAL CODE TO INCREASE THE COMPETITIVE BIDDING AMOUNT FROM \$25,000 TO \$50,000

WHEREAS, it appears that Public Chapter No. 1016 amended TCA 12-3-1212 relative to the thresholds for competitive sealed bids; and,

WHEREAS, City Council of the city of Kingston finds it to be in the best interest of the city and its citizens to increase the amount of formal sealed bids to be obtained be raised from \$25,000 to \$50,000.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KINGSTON THAT:

Section 1. That the section of the Kingston Municipal Code of the City of Kingston dealing with amount of formal competitive bidding is hereby deleted and the following is adopted in the place.

5-501. Bidding required. (1) Public advertised and competitive bidding pursuant to *Tennessee Code Annotated*, § 6-56-301 is required for all purchases by the city to which said statutes apply.

(2) Formal, sealed bids shall be obtained in all transactions involving the expenditure of fifty thousand dollars (\$50,000.00) or more, and any transaction involving the expenditure of fifty thousand dollars (\$50,000.00) or more shall be evidenced by a written contract submitted to and approved by the city council.

Section 2. This ordinance shall take effect upon passage. Any ordinance in conflict with this ordinance is hereby repealed.



 Mayor

ATTEST:



 City Clerk

Passed first reading 12-13-2022

Passed second reading 1-10-2023

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Purchases, leases, and lease-purchases totaling an amount that exceeds the municipality's bid threshold during the fiscal year must be competitively bid. This also includes purchases, leases, and lease-purchases of like or related items usually acquired by two or more buys during the fiscal year.

**Some exceptions to the competitive sealed bid requirements are found in T.C.A. 6-56-302, 6-56-304 and 12-3-1201.

Contracts for Professional Services

Professional services include legal services, fiscal agent, financial advisory or advisory services, services from an insurance provider, educational consultant services, architectural services, engineering services, and similar services by professional people or groups with "high ethical standards. (T.C.A. 12-3-1209 and 12-4-107)

T.C.A. 12-3-1209 requires a contract to be awarded on the basis of recognized competence and integrity, rather than on competitive solicitations. This does not prohibit the municipality from requesting qualifications from eligible service providers and deciding the capabilities of each. Cost must not be the sole factor in choosing the service provider. When the service provider is chosen, the municipality and the provider must enter into a written contract specifying (1) the service and (2) the cost and expenses covered under the contract.

Any fiscal agent, financial advisor or advisory service that serves as municipality must meet the requirements of the Comptroller's Office of State and Local Finance regarding conflict of interest in purchasing municipal debt.

T.C.A. 12-4-107 includes additional requirements for governmental entities in the procurement of architectural and engineering professional services.

In the event a municipality has an existing satisfactory relationship with a qualified architectural or engineering firm, the municipality may expand the scope of the services without seeking qualifications from other licensed firms. (T.C.A. 12-4-107(a)(1)(D))

Request for Proposals (RFP's)

The Tennessee Code provides express authority for municipalities to use a "request for proposal process" only under specific circumstances. (TCA 12-4-107)

Multi -Year Contracts for Maintenance of Water Storage Tanks

Tennessee Code Annotated 12-4-112 permits cities to enter into multi-year contracts for painting and maintenance of water storage tanks through a request for proposals process. The RFP document must include the categories used for evaluating the proposals and the relative weight given to each category. The categories should at least include factors such as:

- Qualifications
- Experience on similar projects
- Availability of workers
- Technical approach
- Minority participation
- Cost
- Any other factors deemed relevant by the procuring governmental entity

Cost is not the sole factor for evaluation. Proposers have at least thirty (30) days from public advertisement of the request for proposals to submit their proposals. The governmental entity may also require multi-year contracts to be competitively bid.

Exceptions to Bids, Proposals, and Professional Services

The Tennessee Code requires public advertising and competitive bids for all purchases, leases, and lease-purchases except:

- Purchases through state contracts (TCA 12-3-1201)
- Investments in or purchases from the Local Government Investment Pool (LGIP) (TCA 6-56-302)
- Purchases from instrumentalities created by two or more cooperating governments (TCA 6-56-302)
- Purchases of goods and services from nonprofit corporations formed to specifically serve municipalities (TCA 6-56-302)
- Purchases, leases, or lease-purchases of real property (TCA 6-56-304)
- Emergency purchases (complete documentation and a report to the municipality's governing body and chief executive are required for each emergency purchase (TCA 6-56-304)
- Purchases of perishable commodities and fuel and fuel products when purchased on the open market (TCA 6-56-304; purchases of natural gas and propane for re-sale (TCA 6-56-304)
- Purchases, leases, or lease purchases of secondhand articles or equipment etc., from federal, state, or local government units or agencies (TCA 6-56-304)
- Purchases under \$2,500, unless a municipality adopts an ordinance increasing the purchase amount to \$50,000, when the municipality has a centralized purchasing authority and a full-time purchasing agent (TCA 12-3-1212)
- Purchases of goods and services from a sole source (TCA 6-56-304)

- Purchases of materials, supplies, commodities, and equipment at public auction (TCA 12-2-421)
- Purchases of goods and services through a reverse auction (TCA 12-3-1208)
- Purchases of energy-related services through contracts (TCA 12-4-110)
- Purchases of professional service through contracts and contracts for architects, engineers, and construction services (TCA 12-3-1209 and 12-4-107)
- Purchases of motor vehicles and intoxicating beverages seized and confiscated by the State (TCA 12-2-201)
- Purchases of supplies, equipment, and services by another governmental entity at the request of a municipality (TCA 12-3-1203)
- Purchases made through cooperative purchasing agreements (TCA 12-3-1205 and 12-9-101 et seq)
- Purchases of any of the insurance as provided in Tennessee Code Annotated, title 29, chapter 20 (TCA 29-20-407)
- Purchases of articles from TRICOR (TCA 41-22-119 through 121)
- Purchases of gasoline or diesel fuel in bulk amounts in the open market after obtaining at least three competitive quotes or through the general services contract (TCA 12-3-1214)

Energy-related Services

TCA 12-4-110 provides that contracts by local governments for energy-related services that include both engineering services and equipment for the purpose of reducing energy costs in public facilities shall be awarded on the same basis as contracts for professional services.

Life Cycle Cost and Procurement Act

TCA 12-3-901 et Seq. requires the state chief procurement officer to determine, to the maximum extent possible, which commodities and products may be bought according to energy efficiency standards. The state must adopt rules and regulations relative to energy efficiency standards for major energy-consuming products. When energy efficiency standards are established, life cycle costs are to be used in contracting for major energy-consuming products. In determining life cycle costs, the state may consider:

- Acquisition cost of the product,
- Energy consumption and projected cost of energy over the useful life of the product, and
- The expected re-sale or salvage value of the product.

Except where prohibited by private act or state law, local governments must adopt the energy efficiency standards and life cycle costing employed by the state within procurement policies. A municipality may develop and adopt its own energy efficiency standards, provided they are more stringent than the state standards.

Purchase of Certain Insurance

TCA 29-20-407 provides that municipalities may purchase any of the insurance authorized and approved by any organization of governmental entities representing cities and counties without having to go through competitive bidding. This is true regardless of any public or private act or charter restrictions.

Purchases through State Contracts

TCA 12-3-1201 authorizes the central procurement office, upon request, to purchase goods and services for any local governmental unit of this state. The cost of any purchase shall be borne by the local government unit concerned. Municipalities may take advantage of so-called “state prices” regardless of any charter or general law requirements without public advertisement and competitive bidding. Not all prices quoted to the state are available to local governments. Regardless of any local or private act, charter or general law, municipalities may purchase any item from local sources if:

- The item is available for purchase through contracts or price agreements entered into by the central procurement office;
- The item is also available at the same or lower cost from such local sources;
- The local government is not permitted to purchase from an existing contract established by the central procurement office; and
- The procedure is approved by a two-thirds vote of the local legislative body and such approval is filed with the comptroller of the treasury.

The items authorized for purchase from a state contract along with price and vendor information, are available electronically from the purchasing division of the Tennessee Department of General Services, Central Procurement Office.

Purchases through Federal Contracts

Local governments may, without public advertisement or competitive bidding, make purchases of goods or services included in the federal general services administration contracts or other applicable federal open purchase contracts. Excluded from this authorization are motor vehicles other than those manufactured for a special purpose as defined in TCA 12-3-1208

Purchases from Other Governments and Private Entities

TCA 12-3-1202 authorizes a municipality to buy secondhand items from any other government. These purchases may be made without competitive soliciting and public advertisement, regardless of charter requirements. A municipality may buy used or secondhand items from any private individual or entity without public advertisement and competitive soliciting if the municipality documents the general range of value of the purchased items through a nationally recognized publication or through an appraisal by a licensed appraiser. The price paid must be no more than five percent (5%) higher than the highest value of the documented range.

Purchases using any other local government contracts

A municipality may purchase supplies, goods, equipment, and services from a vendor under the same price and terms of a legal bid initiated by any other local government unit of this state. The purchase shall be made on the terms of the purchaser. The local government making the purchase does so without involving the original purchasing entity. The original entity shares no liability or responsibility for any purchases made by another local government. Any local or private act, charter, or general law requirements for public advertisement or competitive bidding are met in accordance with this section. This subsection shall not apply to:

- Purchases of new or unused motor vehicles unless the motor vehicles are manufactured for a special purpose as defined in TCA 12-3-1208; and
- Purchases related to any transportation infrastructure project including, but not limited to, projects for the construction or improvements of streets, highways, bridges, tunnels, or any roadway related facility.

State Cooperative Purchasing Agreements

TCA 12-3-512 authorizes the state's central procurement office to enter into cooperative purchasing agreements with other states or local governments, provided that each contract is awarded through full and open competition and pursuant to policies or rules approved by the procurement commission.

Purchase of Confiscated Property from the State

Often, the State will dispose of seized and confiscated vehicles at public sale. As authorized by TCA 12-2-201, a municipality may buy a motor vehicle that has been confiscated by the state. The motor vehicle must be purchased in the name of the municipality and acquired for municipal use. The municipality should determine the fair market value prior to purchase.

Interlocal Cooperation Act

TCA 12-9-101 et seq. codify the Interlocal Cooperation Act. The Act permits any local government in Tennessee to enter into joint agreements to exercise any legitimate governmental function (including purchasing) with any other local government, in Tennessee or in any other state. Participating local governments in another state must have the same blanket authority under that state's laws.

Electronic Bidding, Records, and Signatures

Electronic Bidding

TCA 12-4-116 provides that local governments may satisfy any requirement for mailing by distributing invitation to bid, requests for proposals, and other solicitation electronically. Local governments are authorized to receive bids, proposals, and other offers electronically. Local governments are not authorized to require small businesses and minority-owned businesses to receive or respond to invitations to bid, request for proposals or other solicitations electronically.

Electronic Records and Signatures

TCA 47-10-107 allows contracts to be executed electronically with electronic signatures.

Purchase of Property at Public Auctions

TCA 12-2-421 authorizes local governments to purchase new or used equipment, materials, supplies, and commodities at publicly advertised auctions without public advertisement and competitive bidding. This statute authorizes a municipality to establish written procedures governing purchases at publicly advertised auctions. It also establishes fixed reporting requirements for the purchasing official.

Purchase from State Industries

TCA 41-22-119 through 122, provides that municipalities must buy all items produced, re-packaged, assembled, warehoused, or manufactured by the labor of inmates from the Tennessee Rehabilitative Initiative in Correction (TRICOR) program provided the articles have been certified pursuant to procedures as provided by the procurement commission as being in satisfactory quality, of reasonable cost, and available. This law requires that TRICOR publish an annual catalogue describing all articles and supplies manufactured and provided by the program, copies of which shall be sent to local governments. At least thirty (30) days before the commencement of each fiscal year, the proper municipal official shall report to TRICOR estimates of the kind and number of articles and supplies required by the municipality for the ensuing year, referring to the catalogue issued by the TRICOR board. Exceptions to the mandatory purchases from TRICOR may be made if in the opinion of the procurement commission, which consists of the commissioners of general services and finance and administration, the comptroller of the treasury, the articles do not meet the reasonable requirements of the municipality. Municipalities may not evade the intent of the law by slightly changing the variations from standards adopted by TRICOR when articles have been certified. After notice from the governor, continued intentional violations by the municipality constitute wrongdoing in office and subject the officers or agents responsible for the violation to suspension or removal from office.

“Buy America” Act

TCA 54-5-135 prohibits municipalities from buying any materials used for highway or roadway construction, re-surfacing, or maintenance from any:

- Foreign government
- Company wholly owned or controlled by a foreign government, or
- Agency of such foreign government or company

Materials include, but are not limited to, asphalt, cement, asphalt emulsion, rock, aggregate, liquid or solid additives, sealers, and oils. This statute does not apply if materials made by American companies are of unsatisfactory quality, found unavailable in sufficient quantity, or priced at an amount that will increase the overall project cost by 5% more than the overall project costs using materials produced by foreign companies.

Purchasing Motor Oil

TCA 12-3-807 provides that standard specifications for buying lubricating motor oil must include re-refined or recycled lubricating motor oil, unless circumstances or equipment require specialized treatment. If specialized treatment is necessary, documented evidence to substantiate this exclusion must be submitted to the procurement commission or the appropriate purchasing agency of the political subdivision.

Municipalities may purchase re-refined or recycled lubricating motor oil through the central procurement office. This department compiles and published a list of businesses that commercially distribute re-refined or recycled lubricating motor oil. Prior to accepting competitive bids for a contract concerning lubricating motor oil, the municipality must notify each business entity on the list concerning such proposed contract.

The Iran Divestment Act

The “Iran Divestment Act”, codified in TCA 12-12-101 through 12-12-113, implements the authority granted under federal law, specifically section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195). The act requires the state chief procurement officer to publish a list of persons and entities determined to be engaged in investment activities with Iran on the state’s website. This act requires the state chief procurement officer to publish a list of persons and entities determined to be engaged in investment activities with Iran on the state’s website. Those included on the list are prohibited from contracting with any political subdivision of this state and any contract entered with such persons or entities shall be void. Under the act, political subdivisions in Tennessee are prohibited from entering into any procurement or contract over \$1,000 with a person who engages in vestment activities in Iran. Every bid or proposal submitted to a political subdivision after July 1, 2016, where competitive bidding is required, must contain the following statement by the bidder under penalties of perjury.

“By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to 12-12-106”

A bid shall not be considered nor any award made where the required statement has not been submitted. If the bidder cannot make the certification, the bidder must so state and must furnish

with the bid a signed statement setting forth in detail the reasons. A political subdivision may award a bid to a bidder who cannot make the certification, on a case-by-case basis, if:

1. The investment activities in Iran were made before July 1, 2016, the investment activities in Iran have not been expanded or renewed on or after July 1, 2016, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or
2. The political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

See TCA 12-12-111 (c)

Israel Boycott Statement

TCA 12-4-119 prohibits local governments from entering into contracts with persons or entities that participate in boycotts of Israel. Entities contracting with local governments must certify that they are not currently engaged in a boycott of Israel and will refrain from engaging in such a boycott for the duration of the contract. This definition is used in the law:

“Boycott of Israel” means engaging in refusals to deal, terminating business activities, or other commercial actions that are intended to limit commercial relations with Israel, or companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or persons or entities doing business in Israel, when such actions are taken:

- (A) In compliance with, or adherence to, calls for a boycott of Israel, or*
- (B) In a manner that discriminates on the basis of nationality, national origin, religion, or other unreasonable basis, and is not based on a valid business reason*

TCA 12-4-119

This statute does not apply to contracts for which the total potential value is less than \$250,000 or to contractors with less than 10 employees. A contract entered into in violation of this law is void.

Purchasing from Certain Disabled Persons

Commodities and Services

TCA 71-4-701, et seq. authorize municipalities to purchase services and commodities from qualified non-profit work centers for the blind or severely disabled if the commodities are available and that are certified pursuant to procedures approved by the state procurement commission. This is not mandatory if the service or commodity is available from any state

agency or if the procurement commission determines that the service or item does not meet reasonable requirements.

Vending Facilities

TCA 71-4-501, et seq. require vending services contracts for all public buildings be offered to blind vendors first before a municipality may contract with other vendors. This definition is used in the law:

(5) "Vending facility" means a location or structure or space that may sell foods, beverages, confections, newspapers, periodicals, tobacco products, and other articles and services that are dispensed automatically by a machine or manually by sales personnel or attendants and that may be prepared on or off the premises in accordance with applicable health laws. A "vending facility" may consist, exclusively or in appropriate combination as determined by the department, of automatic vending machines, cafeterias, snack bars, catering services, food concession vehicles, cart services, shelters, counters, and any appropriate equipment necessary for the sale of articles or services described in this subdivision (5). A "vending facility" may encompass more than one (1) building on a public property.

TCA 71-4-501.

When such a contract expires or a new contract is needed for a new building, the municipality must notify the Department of Human Services, which will investigate the public place and determine if it is suitable for a vending facility. The department may establish the vending facility and equip and staff the facility or may determine vending machines must be provided to the department at no cost. All proceeds from such vending services are paid to the Department of Human Services and are used for the benefit of blind vendors.

Conveyance of Real or Personal Property Among Public Agencies

Any municipality or other public agency or agencies may convey or transfer real or personal property to any other public agency or agencies by contract, regardless of any requirements in any budget or purchasing act. The transferring municipality is not required to declare the property surplus prior to the transfer. The receiving public agency or agencies must use the conveyed property for a public purpose. In addition, the governing body of every public agency involved in the conveyance or transfer must agree that the terms and conditions are appropriate. The TCA citation for this topic is TCA 12-9-110.

Transfer of Assets for Fire Protection

A local government may transfer the ownership of assets for fire protection purchased through or with the proceeds of federal, state, or local grants to volunteer fire departments within such county, municipality, or metropolitan area if the volunteer fire departments are registered with the secretary of state as a non-profit organization. The TCA citation for this topic is TCA 12-3-1206.

Interest of Officer in Municipal Contracts

TCA 6-54-107 provides that no one holding a municipal office, elected, or appointed, can contract with the municipality for any work that is to be paid for out of the treasury. That same person cannot also hold or have any direct interest in such a contract. TCA 12-4-101 provides it is unlawful for any person whose duty is to vote for or to supervise any contract with a municipality to be directly interested in such a contract. No municipal officer or other person whose duty is to superintend any contract with a municipality shall be indirectly interested in any such contract unless the officer publicly acknowledges his interest.

Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. A person has a controlling interest when the person has ownership or control of the largest number of outstanding shares owned by any individual or corporation. See TCA 6-54-107 and 12-4-101.

No municipal officer can be indirectly interested in any contract with the municipality unless the officer publicly acknowledges the interest. "Indirectly interested" is defined as any contract in which the officer is interested, but not directly. It includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality. McQuillen's Law of Municipal Corporations provides the following on sole source suppliers of goods and services:

Competitive bidding law may exempt contracts let to "sole source" suppliers. For a company to be a "sole source" its product or service must be unique; the uniqueness must be substantially related to the intended purpose, use, and performance of the good or service sought; and the supplier seeking to be declared a sole source must show that other similar goods or services cannot perform the government's desired objectives.

Capitalization Thresholds for Capital Assets

(In accordance with Government Finance Officers Association (GFOA) best practices)

The term capital assets is used to describe assets that are used in operations and that have initial lives extending beyond a single reporting period. Capital assets may be either intangible (e.g., easements, water rights, licenses, leases) or tangible (e.g., land, buildings, building improvements, vehicles, machinery, equipment, and infrastructure).

As a practical application of the materiality principle, not all tangible capital-type items with useful lives extending beyond a single reporting period are required to be reported in a government's statement of net position. Items with extremely short useful lives (e.g., less than 2 years) and/or of small monetary value are properly reported as an "expense" or "expenditure" in the period in which they are acquired.

When outlays for capital-type items are, in fact, reported on the statement of net position, they are said to be capitalized. The monetary criterion used to determine whether a given capital asset should be reported on the statement of net position is known as the capitalization threshold. A government may establish a single capitalization threshold for all of its capital assets, or it may

establish different capitalization thresholds for different classes of capital assets. In selecting capitalization thresholds, governments should be able to report and depreciate substantially all capital asset value while eliminating the cost of tracking a large number of small-value items.

A government's threshold for capitalization does not need to be calculated in the same way that the government would measure the asset, if it is ultimately capitalized, for reporting in accordance with GAAP. For example, a government's capitalization policy may be to determine whether improvements to an office building (primarily plumbing and electrical upgrades) meet a dollar threshold (\$20,000) before including the cost of new window and floor treatments, which will be part of the improvements, because it does not consider those to be "core costs" of the asset improvement. For assets constructed by a government's own employees, the dollar threshold might distinguish between direct costs (time spent by construction workers, architects and engineers on that project) and indirect costs (allocated costs of the capital improvements department of public works).¹

The capitalization threshold should not be the only factor used when determining if an item should be capitalized. A government should be cognizant of whether similar items are capitalized in order to be consistent in reporting. For example, assume a government, with a capitalization threshold of \$10,000, purchases two pieces of similar equipment. Item A was purchased three years ago for \$11,000, and item B was purchased in the current year for \$9,000. The government also incurred its own direct costs (time spent by construction workers, architects and engineers on that project) and indirect costs (allocated costs of the capital improvements department of public works) for both items, which increased the values of the items to \$13,000 for item A, and \$11,000 for item B. Without the inclusion of the government's own costs, item B would not have been capitalized, while other similar items would be capitalized because they were purchased at a higher price. In this case, the government may choose to capitalize item B for the sake of consistent treatment.

Capitalization is, of its nature, primarily a financial reporting matter. That is, a government's principal concern in establishing specific capitalization thresholds ought to be the anticipated information needs of the users of the government's external financial reports. While it is essential to maintain control over all potentially capitalizable items, there are more efficient means than capitalization for accomplishing this objective in the case of a government's smaller tangible capital-type items. Furthermore, practice has demonstrated that capital asset management systems that attempt to incorporate data on numerous smaller items are often costly and difficult to maintain and operate.

The City of Kingston/Kingston Water Department has determined to set the capitalization threshold at ten thousand dollars (\$10,000)

Title of Policy:	PURCHASING PROCEDURES	<u>Pg 1-11</u>
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Revision Date:		Appendix

The main function of the purchasing department is to aid all departments within the City of Kingston by securing the best materials, equipment, and service at the lowest possible cost, while maintaining high standards of quality. To have a good purchasing program, all City of Kingston employees directly or indirectly associated with buying must work as a team to promote the City's best interests in getting the maximum value for each dollar spent. Utilizing written, organized buying procedures is important because it lets taxpayers know their money is being spent carefully, vendors know they will be treated fairly, and employees have support, direction, and protection from their highest superiors. The adoption of purchasing procedures is a critical part of managing expenditures to ensure public monies are spent only for municipal purposes.

Purchase Requisition

A Requisition must be completed and approved before a purchase is made

The requisitioner shall not split orders to avoid any provisions of the municipal code, Charter, purchasing guidelines, or any policy established

The purpose of a purchase requisition lets the purchasing department know, in detail, what the using department needs. A requisition is required for purchases, requesting price information, initiating a bid request, and for requesting governing body approval on major expenditures.

Requisitions **shall** be prepared far enough in advance that the purchasing department can obtain competitive prices and the vendor has enough time to make the delivery.

Requisitions shall originate in the using department and must be signed by the department head and/or their approved designee (List of approved designees must be provided to the purchasing department).

All requisitions are submitted to the Purchasing Agent. The Purchasing Agent can approve if the amount is under one thousand dollars (\$1,000). Requisitions for one thousand dollars (\$1,000) or more require the approval of the Finance Director and the City Manager.

Any purchase must have prior approval from the purchasing agent.

The requisition must contain the following information:

- Date issued-The date the requisition is prepared
- Department Name-The using department name
- Requisitioner-Legible signature of person initiating the purchase request
- Department Head-Legible signature of department head
- Delivery Location-Be specific of the location to avoid confusion
- Item number-Numerical order of items listed
- Quantity-The number required
- Unit-Dozen, lineal feet, gallons, etc
- Description-Give a clear description of the items, including size, color, type, etc . If the purchase is of a technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given, followed by a trade name and model number of an acceptable item “or approved equal” Should not give specifications that will favor one supplier to the exclusion of any others. A vague description such as “supplies” is not sufficient.

****INCOMPLETE INFORMATION WILL RESULT IN THE REQUISITION BEING RETURNED TO THE USING DEPARTMENT FOR CLARIFICATION****

Blanket Requisitions

Blanket Requisitions may be issued for frequent suppliers for daily operations, at the discretion of the purchasing agent. Each item purchased must be listed on a monthly purchase log for the department and submitted to the Purchasing Agent at the end of each month.

Expediting Orders

If a vendor is waiting for a purchase order to process a rush job, write EXPEDITE IMMEDIATELY in the body of the requisition. The purchasing agent will then contact the vendor and supply a purchase order number. This process will be the exception rather than the rule.

Insufficient Funds

If it is determined that there is not enough budget appropriations or available cash to make a purchase, it will be referred to the purchasing agent, who will notify the department head.

Purchase Order

Purchase orders are issued only after a requisition has been submitted and approved

The Purchasing Agent must notify the Finance Director of purchases that will require budget amendments to ensure the appropriations are made

A purchase order authorizes the buyer to place the order based on the approved requisition. It authorized the seller to ship and invoice the materials and services as specified. Purchase orders shall be written in a clear, concise, and complete manner.

Once the requisition is approved, the Purchasing Agent will produce the Purchase Order. The Purchasing Agent will distribute copies of the purchase order as follows:

1. A copy is sent to the department head making the request, to be held until the goods or services are received. Once the good or services are received by the department the department head will submit a packing slip and/or a Material Receiving Report to the purchasing agent.
2. A copy is kept by the purchasing agent who handles the payment and files it as a completed order with the invoice.
3. A copy should be kept in each department's file for reference.

Cancellations

The purchasing agent must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process.

Material Receiving Report

The material receiving report form or packing slip is designed to let the purchasing agent know that the goods/services of a particular order has been received and is accurate and free of damage. This report is completed by the person receiving the merchandise and shall be completed immediately upon receipt of materials, supplies, or services.

Material Receiving Report

Department: _____
 Date: _____
 Purchase Order # _____

Item No.	Description	Quantity

I hereby certify that the material or services has been received, inspected, and found satisfactory for the purpose for which they were purchased

Department Head or designee _____ Date _____

900 WATERFORD PLACE
 (865) 376-6584
 Kingstontn.gov

When any item(s) is not in satisfactory condition, a statement about the condition of the item(s) must be made in the description column.

Emergency Purchases

The City Manager must approve all emergency purchases

Emergency purchases are to be made by departments only when:

- Actual emergencies arise from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work; and
- When property, equipment, or life are endangered through unexpected circumstances; and
- Materials, services, etc. are needed immediately

Once approved by the city manager, emergency purchases, either verbal or written, may be made directly by the requesting department without competitive bids, provided sufficient funds are available and necessary approvals have been secured.

Requesting department must use sound judgement when making emergency purchases of materials and supplies and for labor or equipment. If time permits, quotations should be obtained, and the purchase should be made from the vendor with the lowest and best quote. If time does not permit, orders should be placed with vendors who have a good history with the department.

As soon as the purchase is complete, on the same or following business day, the requesting department must:

- Give the purchasing agent a complete requisition with the description of the emergency and approval by the department head. "Confirming Emergency Purchase" must be marked plainly on the requisition, along with the purchase order number
- The sales ticket, delivery slip/Material Receiving Report, and verified invoice confirming the purchase must be attached to the emergency requisition form.

Year End Purchase Order and Requisition Plan

All purchase orders will be obtained on a case-by-case basis with the necessary provided requisition

All purchase orders will be closed by May 1st of each fiscal year

Each department will have two (2) weeks to determine how much money is still available and any last-minute purchases may be made by June 1st, providing the vendor will invoice before June 30th.

After June 1st ALL purchases over five hundred (\$500) dollars will require approval from the Finance Director and the City Manager on the Year End Purchase Justification form.

Sealed Bids

Sealed Bids are required on purchases of \$50,000 or more (Ordinance 22-12-13-01)

The department head will collect specifications for the items needed (including quantity, size, brand preferred, performance requirements, etc.) and submit this information to the Purchasing Agent at least three weeks prior to the date the bid request will be advertised.

The purchasing agent will prepare the invitation to bid, the bid packet, and set the date/time/location for the bid opening and advertise appropriately. The invitation for bids shall be distributed electronically by the purchasing agent and the bids shall be considered when they are received at the designated office if by the time and date set for receipt of bids. The City Manager will receive the bids. The City Manager, Purchasing Agent along with other personnel will open the bids publicly at the advertised date/time. The purchasing agent will provide a bid tabulation to all vendors participating.

No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.

Bids will not be accepted by telephone.

Copies of bid request forms are available to each bidder. Bids will not be accepted on any vendor letterhead, vendor bid form, or other substitutions unless special permission is given.

The following applies to sealed bids:

1. **Bid Opening**: Bids will be opened at the time and date specified on the bid request. All bids are opened publicly, with a tabulation provided to all vendors participating
2. **Invitations to Bid**: The invitation for bids shall be distributed electronically and bids shall be considered when they are received at the designated office if by the time and date set for receipt of bids. Such electronic bids shall contain specific reference to the invitation for bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms, conditions, and provision of the invitation for bids. Printed copies of the bid package shall be made available through the purchasing department.
3. **Late Bids**: No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.
4. **Bid Opening Schedule**: The purchasing agent is responsible for setting bid opening dates and times.
5. **Telephone Bids**: Telephone Bids will not be accepted.
6. **Bid Form**: Duplicate bid request forms will be available to the bidders. Bids will not be accepted on any vendor letterhead, vendor bid form, or other substitutions.
7. **Noncompliant Bids**: Failure to sign and include all certifications and statements as required in the bid package will result in removal from bid consideration.
8. **Unsigned Bids**: Failure of a vendor representative to sign a bid removes that bid from consideration.

9. Acceptance of Bids: The city reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder or to accept the bid (or bids) that in the judgment of the governing body is in the best interest of the city.
10. Shipping Charges: Bids are to include all shipping charges to the point of delivery. Bids will be considered only on the basis of delivery price, except as otherwise authorized by the governing body.
11. Sample Product Policy: The purchasing agent may request a sample product as part of a bid. If this is stated on the bid form, the vendor is required to comply with this request or have the bid removed from consideration.
12. Approved Equal Policy: Specifications in the request for bid are intended to establish a desired quality or performance level or other minimum requirements that will provide the city with the best product available at the lowest possible price. When a brand name or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands or models other than those designated as "equal to" products shall receive equal consideration.
13. Alternate Bids: Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the city to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.
14. Vendor Identification: Potential suppliers are selected from existing vendor files using department's suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.
15. Tie Bids: A tie bid is one in which two or more vendors bid identical items at the same unit cost. The winning bidder among tie bids may be determined by one of the following factors:
 - Discount allowed
 - Delivery schedule
 - Previous vendor performance
 - Trade-in value offered

In the case of a tie bid on identical items and all the factors above are equal, vendor location may be considered.

1. Cancellation of Invitation for Bid or Request for Proposal: An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the city. The reasons shall be made a part of the bid or proposal file.
2. Public Advertisement: Invitations to bid shall be published at least 14 days prior to the submission deadline for bids. In addition to publication in a newspaper of general circulation as required by law; the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, this notice should state clearly the purchase to be made.
3. Mistakes in Bids: Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening date and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the purchasing agent. The

purchasing agent shall determine if all or a portion of any bid bond shall be surrendered to the city as liquidated damages for any costs associated with the bid withdrawal.

4. **Bid Bond:** The purchasing agent may require that bidders submit a bid bond or other acceptable guarantee equal to 5 percent of the bid to ensure that the lowest responsible bidder selected by the board enters into a contract with the City of Kingston. All or a portion of the bid bond shall be surrendered to the city as liquidated damages should the successful bidder fail to enter into a contract awarded by the board.
5. **Performance Bond:** The purchasing agent may require and then include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the city attorney that insures the faithful performance of all the terms and conditions of the purchase contract. *Unless lowered or increased to the maximum allowed by law by the governing body.

Other Factors to Consider in Bid Awards

In addition to price, the following factors should be considered when awarding a bid which serves the best interest of the municipality:

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience, and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances related to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract
- Terms and conditions stated in bid.
- Compliance with specifications or request for proposal

Non-Performance Policy

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from a bid list for a period to be determined by the governing body
- Allowing the vendor to find the needed item for the City from another supplier at no additional cost to the City.
- Allowing the City to purchase the needed services, materials, or supplies from another source (following purchasing procedures) and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement

Delinquent Delivery

Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the requesting department says the items have not been received. If this happens, the department head will initiate action, either written or verbal as time allows, to investigate the delay.

Contractual Purchases

Materials, supplies, or services that are needed constantly for city operations will be appropriated in the annual budget and processed through our payables process by the purchasing agent monthly.

Items Covered by Warranty or Guarantee

The city buys many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the department should be consulted to determine if the item is covered by such warranty or guarantee. It is the department's responsibility to maintain these records on their items and register appropriately. The department shall remit a copy of these records to the purchasing agent for records.

Signatures

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the City Manager or by action of the governing body. (See section 4.10 of the City Charter)

Sale of Surplus Property

When a department head determines there is surplus equipment or material in the department, the City Manager's office shall be notified by email. All department heads and employees shall comply with the municipal surplus property policy.

*Unless specified by law, all proceeds from the sale of surplus property will be transferred to the fund balance.

Kingston City Charter

Section 5.06 Powers with respect to property and equipment.

The management of all city property and equipment, except as otherwise provided, shall be the responsibility of the city manager who shall prepare for the approval of the council regulations governing the acquisition, custody, use and disposal of all such property and equipment. Such regulations shall provide for a regular inventory, appraisal and marking of all such property and shall require that the disposal of any city property and equipment shall be by sale, with sealed bids taken or public auction held on such property and equipment valued at more than five hundred dollars (\$500); provided, that any sale for more than one thousand dollars (\$1000), or any sale of real estate shall be subject to the approval of the city council.

Inspection and Testing

When necessary, deliveries of supplies, materials, equipment, or contractual services may be required to be inspected to ensure their performance meets specifications made in an order or contract. The city may also require chemical and physical tests of materials submitted with bids and delivery samples or after

products have been delivered. These tests may be necessary to be sure the quality of materials meets the desired standards. When performing such tests, the city may use the facilities of any outside lab.

General Information

Federal Excise Tax

The city is exempt from the payment of excise taxes imposed by the federal government, and suppliers must deduct the amount of such taxes from their bids, quotations, and invoices.

Standardization Requirements

Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought based on requirements for the fiscal year.

Inspection of Deliveries

No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head, and the invoice has been verified.

Correspondence with Suppliers

Copies of any correspondence with suppliers concerning prices, adjustments, or defective merchandise shall be forwarded to the purchasing agent. All invoices, bills of lading, delivery tickets, and other papers relating to purchases shall be sent to the purchasing agent.

Claims

The purchasing agent shall initiate all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.

Public Inspection of Records

The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders in accordance with adopted retention schedules. Such records shall be open to public inspection.

Designee

When a position such as purchasing agent, finance officer, or department head is mentioned, their assistants or designees are acceptable substitutes if they have written permission to do so.

Registration and licensure Requirements

Architect or Engineer Required:

TCA 62-2-107 provides that state and local governments shall not engage in the construction of public works projects involving architecture, engineering, or landscape architecture without having plans, specifications, and estimates made by registered architects, registered engineers, or registered landscape architects. This requirement does not apply if the cost of the completed project does not exceed fifty thousand dollars (\$50,000), and the work does not alter the structural, mechanical, or electrical system of

the project, or the project cost does not exceed one hundred thousand dollars (\$100,000) and the project is located in a state park, and the work is solely maintenance, as defined in the state building commission policy and procedures

Public Works Contracts: Contractors and subcontractor services for public works contracts exceeding \$25,000 shall comply with licensure requirements contained in TCA 62-6-102

REQUIRED MONTHLY DEPARTMENTAL REPORTING

A monthly purchasing/procurement log shall be completed by each department and submitted to the Finance Director on the first day of each month outlining purchases made throughout the month. This is designed to provide for an effective system of procurement including the reasonable assurance that unnecessary or duplicative items are not purchased for any of the City’s functions. These reports will aid the reconciliation of purchases by department and will also assist the Grants Administrator in determining if purchases qualify for any grant reimbursements.



**PURCHASING / PROCUREMENT
LOG**

DEPARTMENT: EXAMPLE
MONTH/YEAR:

P.O. #	DATE ORDERED	VENDOR	DETAILED DESCRIPTION	ISSUED TO/REASON	AMOUNT	PAYMENT METHOD
1	12/2/2024	FOOD CITY	GROCERIES FOR INMATE LABOR	INMATE LABOR	\$100	FOOD CITY CREDIT
2	12/5/2024	AMAZON	STEPS FOR STAGE	STEPS FOR MOBILE STAGE	\$500	AMERICAN EXPRESS
3	12/10/2024	ACE HARDWARE	6-2X4 BOARDS, 15-HARDWARE BRACKETS, 7-PIECES OF PLYWOOD	REPAIR CONCESSION STAND AT SWP	\$10,000	INVOICE
4	12/15/2024	AMAZON	2-UNIFORM PANTS, 3 UNIFORM SHIRTS	OFFICER BROWN	\$300	AMERICAN EXPRESS
5	12/18/2024	ACM AUTO	6 OIL FILTERS, 25 QUARTS OF OIL, 10 SETS OF BRAKE PADS	STOCK FOR CITY FLEET MAINTENANCE	\$500	INVOICE
6	12/19/2024	AUTO ZONE	AIR FILTER, FUEL FILTER, HEADLIGHT	KFD-ENGINE 1	\$300	INVOICE

Title of Policy:	DEBT MANAGEMENT	<u>Pg 1-2</u>
Section #:	Section 10	
Approval Date:	<u>October 11, 2011</u>	
Revision Date:	<u>April 10, 2012</u>	Appendix

The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the City of Kingston. This policy reinforces the commitment of the City and its officials to manage the financial affairs of the City so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the City. A debt management policy signals to the public and the rating agencies that the City is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy. The goal of this policy is to assist decision makers in planning, and issuing and managing debt obligations by providing direction to staff.

Definition of Debt: All obligations of the City to replay, with or without interest in installments some amount of money utilized for the purchase, construction, or operation of City resources. This includes but is not limited to notes, bond issues, capital leases and loans (Tennessee Municipal Bond Fund and Rural Development Authority)

Approval of Debt: Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller’s Office and the City Council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the Comptroller’s Office prior to issuance. Capital or equipment leases may be entered into by the City Council; however, details on the lease agreement will be forwarded to the Comptroller’s Office on the specified form within 45 days.

Transparency:

- The City shall comply with legal requirements for notice and for public meetings related to debt issuance.
- All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and website.
- All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens, City Council, and other stakeholders in a timely manner.
- The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, City Council, and other stakeholders in a timely manner.
- A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, City Council, and other stakeholders in a timely manner.

Role of Debt:

- Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain

projects and equipment financing as well as for operational borrowing; however, the City will minimize the use of short-term case flow borrowings by maintaining adequate working capital and close budget management.

- In accordance with Generally Accepted Accounting Principles and state law,
 - The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed 30 years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.
 - Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence.

Types and Limits of Debt:

- The City's total outstanding debt obligation will be monitored and reported to the City Council by the Finance Director. The Finance Director shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The Finance Director shall also report to the City Council any matter that adversely affects the credit or financial integrity of the City.
- The City bonds, notes, and loans in the past and is authorized to issue General Obligation bonds, Revenue bonds, TIFs, loans, notes and other debt allowed by law.
- The City will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.
- As a rule, the City will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the City may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the city.
- The City may use capital leases to finance short-term projects.
- Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The City may use its General Obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the City. The City Council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the City's General Fund.

Use of Variable Rate Debt:

- The City recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.
- However, the City also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:
 1. The City will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

2. Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the City Council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.
3. Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the City Council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.
4. Prior to entering into any variable rate debt obligation, the City Council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

Use of Derivatives:

The City chooses not to use derivative or other exotic financial structures in the management of the City's debt portfolio.

Prior to any reversal of this provision:

1. A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the City Council; and
2. The City Council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the State Funding Board Guidelines.

Cost of Debt:

- All costs associated with the initial issuance or incurrence of debt, management, and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the City Council in accordance with the notice requirements stated above.
- In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. General Obligations bonds in context of the General Fund, Revenue bonds in context of the dedicated revenue stream and related expenditures, loans, and notes)

Professional Services:

The City shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the City and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

- Counsel: The City shall enter into an engagement letter agreement with each lawyer or law firm representing the City in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the City or lawyer or law firm which is under a general appointment or contract to serve as counsel by the City. The City does not need an engagement letter with counsel not representing the City, such as underwriter's counsel.)

- Financial Advisor: (If the City chooses to hire financial advisors the City must select between the following options.) The City shall enter into a written agreement with each person or firm serving as financial advisor in debt management and transactions.
 - In a competitive sale, the financial advisor shall not be permitted to bid on an issue for which they are or have been providing advisory services.
 - In a publicly offered, negotiated sale, the financial advisor (either):
 - Shall not be permitted to resign as financial advisor in order to underwrite an issue for which they are or have been providing advisory services; or
 - May resign as financial advisor only in advance of negotiations in order to underwrite an issue for which they are or have been providing advisory services.
- Underwriter: (If there is no financial advisor) in advance of pricing of the debt in a publicly offered, negotiated sale, the underwriter must provide pricing information both as to interest rates and to takedown per maturity to the City Council (of its designated official)

Conflicts:

Professionals involved in a debt transaction hired or compensated by the City shall be required to disclose to the City existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the City to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

Refinancing Outstanding Debt:

The City will refund debt when it is in the best financial interest of the City to do so and when it is advantageous to restructure debt. The Chief Financial Officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

Review of Policy:

This policy shall be reviewed at least annually by the Finance Director and when needed make recommendations to Council for any amendments. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input

Adopted 10/11/2011

Amended 4/10/2012

PERSONNEL POLICY MANUAL

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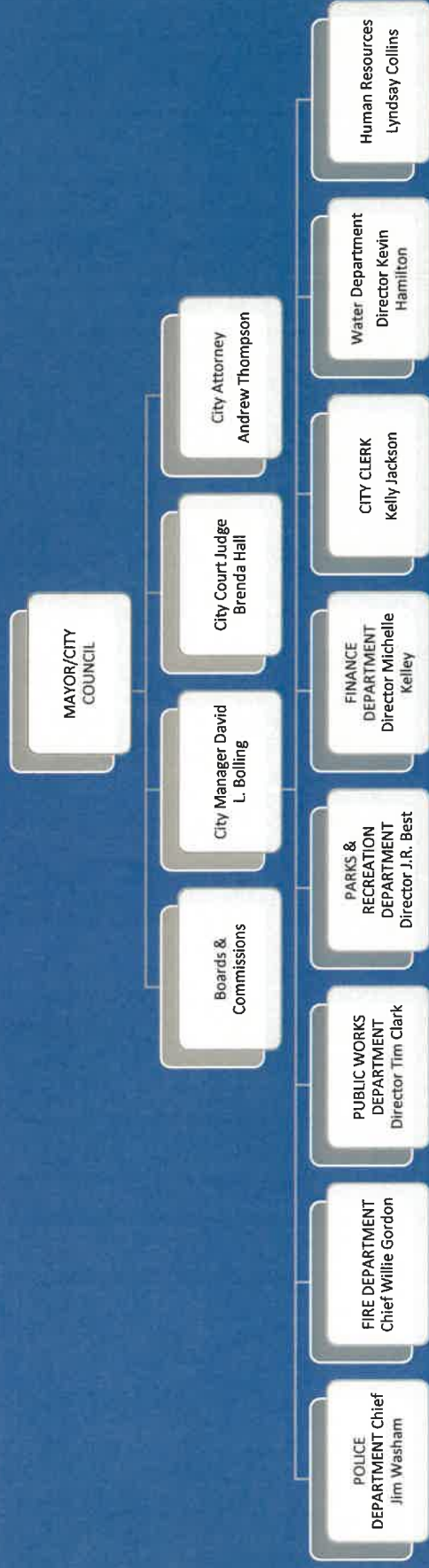
SECTION 11
CHAIN OF COMMAND

ORGANIZATIONAL CHARTS

CITY OF KINGSTON

ORGANIZATIONAL CHARTS

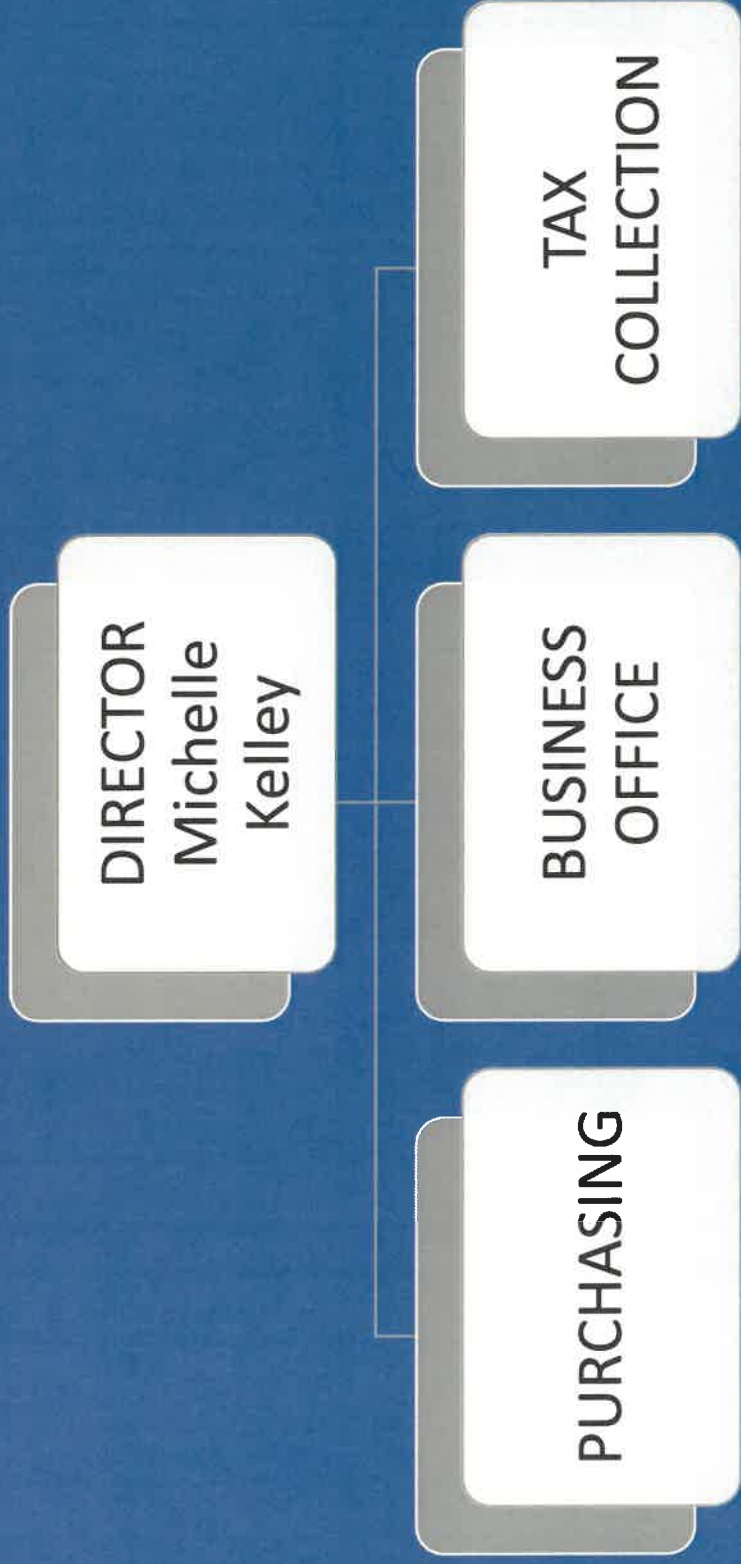
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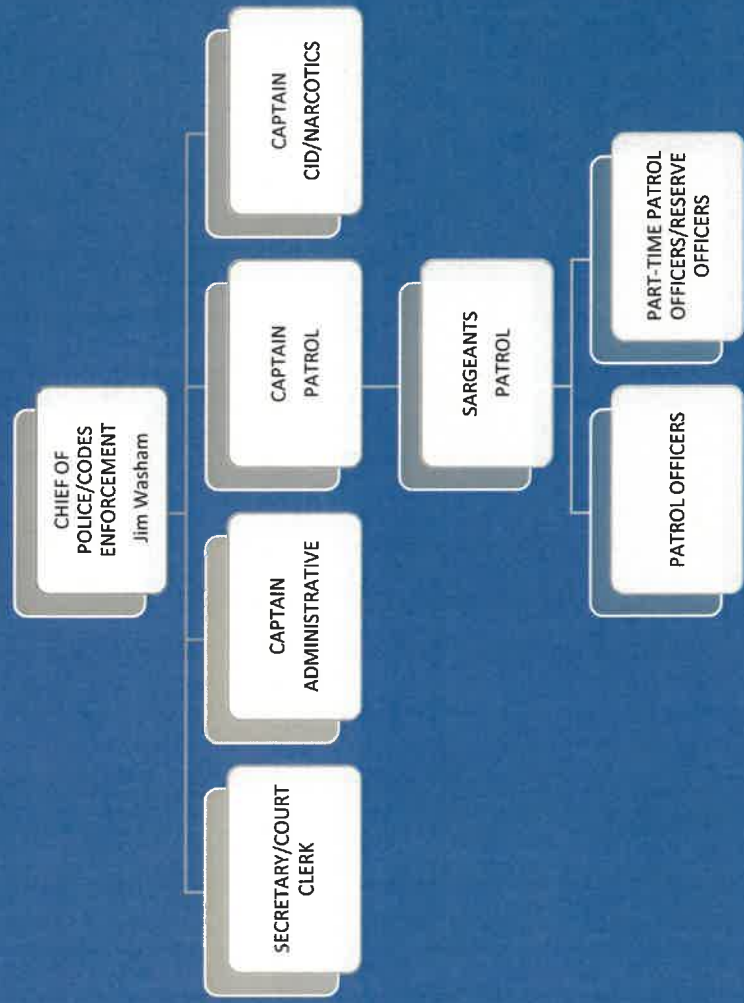
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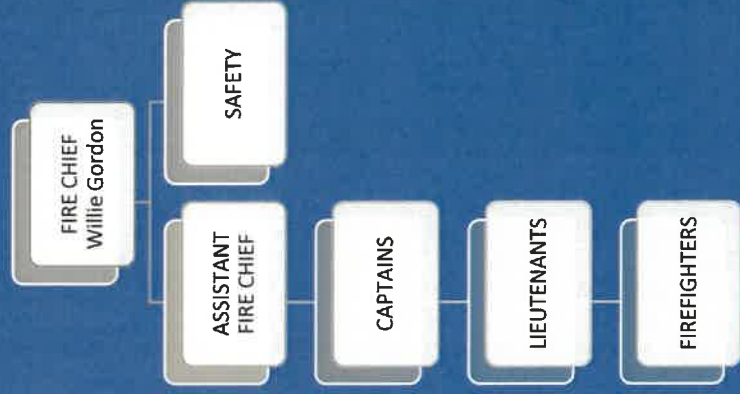
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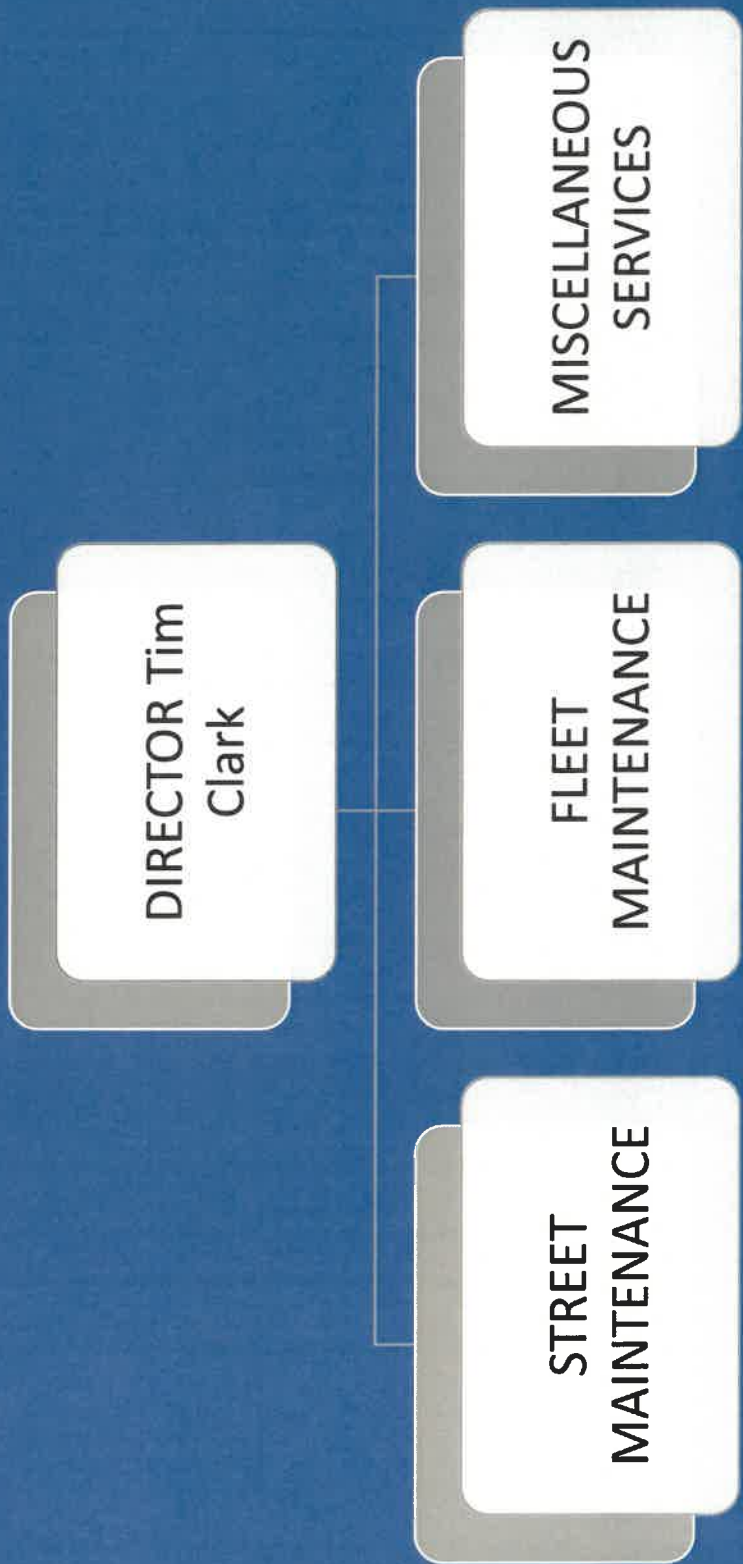
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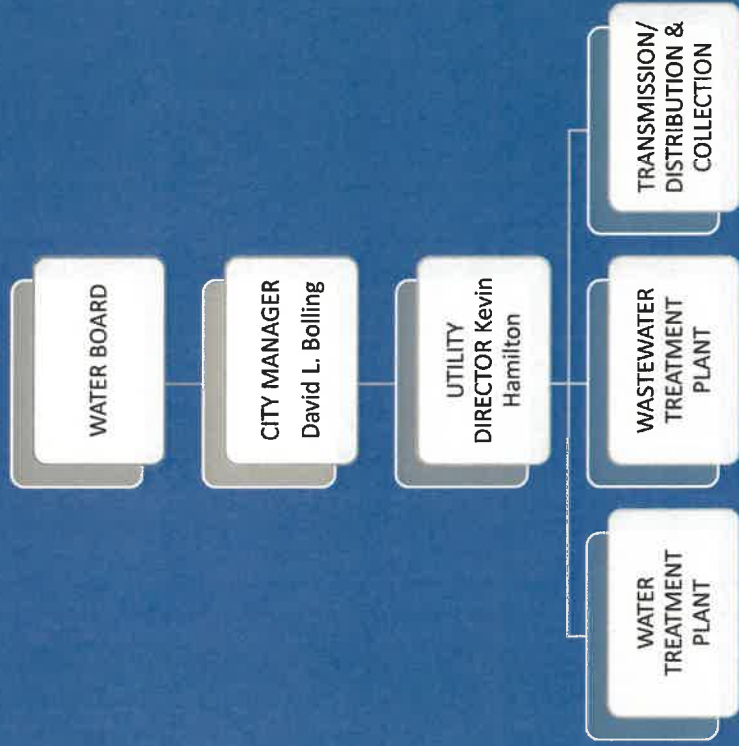
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KINGSTON WATER DEPARTMENT



KINGSTON PARKS & RECREATION

