

CHAPTER 1. ADMINISTRATION

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	<i>for the City of St. Francis, Kansas</i>
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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of St. Francis, Kansas," and may be so cited. The Code may also be cited as the "St. Francis City Code." (Code 2003)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City shall mean the City of St. Francis, Kansas.
 - (b) Code shall mean "The Code of the City of St. Francis, Kansas."
 - (c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (d) County means the County of Cheyenne in the State of Kansas.
 - (e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
 - (f) Gender. Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.
 - (h) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

- (i) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
 - (j) Month shall mean a calendar month.
 - (k) Number. Words used in the singular include the plural and words used in the plural include the singular.
 - (l) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."
 - (m) Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.
 - (n) Owner applies to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
 - (o) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
 - (p) Property includes real, personal and mixed property.
 - (q) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.
 - (r) Shall, may. "Shall" is mandatory and "may" is permissive.
 - (s) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
 - (t) Signature, subscription includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.
 - (u) State shall be construed to mean the State of Kansas.
 - (v) Street means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.
 - (w) Tenant or occupant applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.
 - (x) Tenses. Words used in the past or present tense include the future as well as the past and present.
 - (y) Writing or written may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.
 - (z) Year means a calendar year, except where otherwise provided.
- (Code 1994; Code 2003)

1-103. **EXISTING ORDINANCES.** The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1994; Code 2003)

1-104. **EFFECT OF REPEAL.** This repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1994; Code 2003)

- 1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.
(Code 1994; Code 2003)
- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the end of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code.
(Code 1994; Code 2003)
- 1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of St. Francis is hereby amended to read as follows: (the new provisions shall then be set out in full) . . . " A new section not heretofore existing in the code may be added as follows: "The code of the City of St. Francis is hereby amended by adding a section (or article or chapter) which reads as follows: . . . (the new provisions shall be set out in full) . . . " All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of St. Francis is hereby repealed."
(Code 1994; Code 2003)
- 1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance.
(K.S.A. 12-3002; Code 1978, 1-108, 116; Code 1994; Code 2003)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed.
(K.S.A. 12-3004; Code 1994; Code 2003)
- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication.
(K.S.A. 12-3007; Code 1978, 1-117; Code 1994; Code 2003)

- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication.
(K.S.A. 12-3008; Code 1994; Code 2003)
- 1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council.
(Code 1978, 1-118; Code 1994; Code 2003)
- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records.
(K.S.A. 12-120:121; Code 1994; Code 2003)
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portions of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of St. Francis to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body.
(Code 1994; Code 2003)
- 1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with sections 1-116. Each day any violation of this code continues shall constitute a separate offense.
(Code 1994; Code 2003)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribe, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
 - (b) Imprisonment in jail for not more than 179 days; or,
 - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 1994; Code 2003)
- 1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code.
(Code 1994; Code 2003)

ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and five councilmembers to be elected as set out in Chapter 6 of this code.
(Code 1978, 1-101; Code 1994; Code 2003)
- 1-201A. QUALIFICATIONS. The mayor and each of the council members of the city shall be not less than 18 years of age, a citizen of the United States and a qualified elector of the city.
(Ord. 446, Sec 1-103; Code 1994; Ord. 485 passed 3-18-1997; Code 2003)
- 1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city.
(K.S.A. 12-103; Code 1978, 1-105; Code 1994; Code 2003)
- 1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the first and third Tuesday after the first Monday of each month at 7:30 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the governing body, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
(K.S.A. 15-106; Code 1978, 1-107:109; Code 1994; Code 2003)
- 1-204. SAME; QUORUM. In all cases, it shall require four of the five councilmembers-elect to constitute a quorum to do business.
(Charter Ordinance No. 2002-1, Exempting city from the provisions of K.S.A. 15-106, passed April 2, 2002; Code 2003)
- 1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:
(a) Have the superintending control of all officers and affairs of the city;
(b) Take care that the ordinances of the city are complied with;
(c) Sign the commissions and appointments of all officers elected or appointed;
(d) Endorse the approval of the governing body on all official bonds;
(e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;

(g) Sign all orders and drafts drawn upon the city treasury for money.
(K.S.A. 15-301:302; 305:306; 308:309; Code 1978 1-111; Code 1994; Code 2003)

1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other council members but shall exercise no veto.
(K.S.A. 15-310:311; Code 1978, 1-112:113; Code 1994; Code 2003)

1-206A. COUNCIL COMMITTEES; APPOINTMENT. Standing committees of the governing body shall consist of three members each to be appointed by the mayor, by and with the consent of the council, at the regular meeting of the governing body following the city election. The member first appointed shall be the chairman of the committee. Special committees of the governing body may be appointed from time to time by motion duly made and carried for the purpose. The following standing committees may be appointed:

- (1) Utilities;
- (2) Streets and Alleys;
- (3) Parks (Sanitation - Refuse - Recreation).

(Code 1978, 1-114; Code 1994; Code 2003)

1-207. ADMINISTRATIVE POWERS. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor.
(Code 1978, 1-115; Code 1994; Code 2003)

1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. Vacancies in elective offices shall be filled as follows:

- (a) In case of a vacancy occurring in the office of mayor, the president of the council shall become mayor until the next regular election for that office and vacancy shall occur in the office of the councilmember becoming mayor.
- (b) When a vacancy shall occur in the governing body, the mayor, by and with the advice and consent of the remaining councilmembers, shall appoint some suitable elector to fill the vacancy until the next election for that office.

(Code 1978, 1-113, 120; Code 1994; Code 2003)

1-209. COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance.
(Code 1978, 1-205; Code 1994; Code 2003)

1-210. EXPENSES. Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

- (a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or city council.
- (b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or city council, provided such expenses

shall be documented by proper receipts.
(Code 1994; Code 2003)

1-211.

RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

Rule 1. Adjourned Meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special Meetings. Special meetings may be held at any time upon a call signed by a majority of the governing body.

The call of a special meeting shall be in substantially the following form:

CALL FOR SPECIAL GOVERNING BODY MEETING

St. Francis, Kansas
_____, 20_____

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the city hall, _____, 20____ at _____ o'clock _____m., the object of said meeting being to _____ (state object)

Signed:

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the _____ shall be issued by the city clerk to the chief of police, his or her deputy, or a law enforcement officer or other city employee, who shall be required to make service of said notice at once personally upon each _____ or to leave it at his or her usual place of residence, and such notice must be served or left at the usual place of residence at least two hours before the time of meeting. The person serving the notice shall make a return in writing of the service, showing the manner of such service. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member. The notice and the return shall be in substantially the following form:

NOTICE OF SPECIAL GOVERNING BODY MEETING

Office of the City Clerk
St. Francis, Kansas

To _____

You are hereby notified that there will be a special meeting of the Governing Body at _____ o'clock ____ m., _____, 20____, at the city hall for the object of (state the same object as shown in the call).

Witness my hand and the seal of said city this _____ day of _____, 200____.

State of Kansas, County of Cheyenne, ss.

City Clerk
City of St. Francis

To (chief of police, his or her deputy, or a law enforcement officer or other city employee).

Greeting:

You are hereby directed to serve the above notice at once personally upon _____ or to leave it at his or her usual place of residence before _____ o'clock ____ m., _____, 20____, and to make a return in writing of said service, showing the manner of such service.

(SEAL)

City Clerk

RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at _____ o'clock _____ m., on the _____ day of _____, 20____, and (served the same personally on _____ or left said original notice at the usual place of residence of _____) at _____ o'clock ____ m., on the _____ day of _____, 20____.

Dated this _____ day of _____, 20____.

Signed:

Person serving notice

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business, which shall be conducted in the following order:

- (1) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
- (2) Presentation of petitions, memorials, and remonstrances;
- (3) Consent agenda;
- (4) Unfinished business;
- (5) New business;
- (6) Reports of other city officers.
- (7) Presentations of claims and appropriation ordinance

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions or order subject to an appeal to the council.

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Certain Motions in Writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. Resolutions. All resolutions must be in writing.

Rule 9. Motions During Debate. When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;
- (4) To postpone;
- (5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons

present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 12. Precedence of Questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 13. Previous Question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002, 12-3004)

Rule 15. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk. who shall secure publication of the ordinance as required by law.

Rule 16. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 17. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 1994; Code 2003)

1-212. CODE OF ETHICS. (a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interest of the city.

(b) Responsibilities of Public Office - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(c) Dedicated Service - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) Fair and Equal Treatment - (1) Interest in Appointments. Canvassing of members of the city council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the city council.

(2) City owned and maintained mechanized and motorized equipment shall be available for use by full time city employees under the following circumstances and conditions:

(A) That prior permission is obtained for the use of the equipment from the city superintendent, and the power plant operator on duty is advised as to when the city equipment is to leave city premises and where the equipment is to be used in the event it is needed by the city while checked out.

(B) The employee notes the checkout and return of the equipment on a sign-out and sign-in record to be maintained at the municipal power plant.

(C) That the equipment is utilized by the employee for personal use only and not for hire, and that while in the possession of the employee, the equipment shall not be loaned to or used by third parties or utilized on property or premises owned or controlled by third parties.

(D) That all checked-out equipment be returned to city premises where the equipment is normally stored and maintained every evening.

(E) That prior to checking the equipment out for personal use, the employee have a working knowledge necessary to ensure the safe and correct operation of the equipment. (See Resolution No. 91-1)

RESOLUTION NO. 91-1

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS, KANSAS, THAT THE FOLLOWING POLICY REGARDING THE USE OF CITY OWNED EQUIPMENT BY CITY EMPLOYEES IS HERBY ADOPTED.

City owned and maintained mechanized and motorized equipment shall be available for use by full time City employees under the following circumstances and conditions:

1. That prior permission is obtained for the use of said equipment from the city superintendent, and the power plant operator on duty is advised as to when the city equipment is to leave city premises and where the equipment is to be used in the event it is needed by the city while checked out.
2. The employee notes the checkout and return of the equipment on a sign-out and sign-in record to be maintained at the municipal power plant.
3. That the equipment is utilized by the employee for personal use only and not for hire, and that while in the possession of the employee, the equipment shall not be loaned to or used by third parties or utilized on property or premises owned or controlled by third parties.
4. That all check-out equipment be returned to city premises where the equipment is normally stored and maintained every evening.
5. That prior to checking the equipment out for personal use, the employee have a working knowledge necessary to ensure that safe and correct operation of the equipment.

ADOPTED by the governing body of the City of St. Francis, Kansas, on June 4, 1991.

/s/ Donald E. Topping, Mayor

Attest:

/s/ Deanna Forsythe, City Clerk

(3) Obligations to Citizens - No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(e) Conflict of Interest - No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) Incompatible Employment - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(2) Disclosure of Confidential Information - No elected or appointive city official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

(3) Gifts and Favors. No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to (a) an occasional nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(Code 1978, 1-104; Code 1994; Code 2003)

ARTICLE 3. OFFICERS AND EMPLOYEES

1-301. **APPOINTMENT.** At the first regular meeting in May of each year the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, chief of police, and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance.

(K.S.A. 15-204; Code 1978, 1-201; Code 1994; Code 2003)

1-302. **EMPLOYEES.** The mayor with the consent of council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads.

(Code 1994; Code 2003)

- 1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.
 (b) For good cause, the mayor may suspend at any time any appointed officer.
 (c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.
 (d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing.
(K.S.A. 15-204; Code 1978, 1-203; Code 1994; Code 2003)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.
(K.S.A. 15-209; Code 1978, 1-204; Code 1994; Code 2003)
- 1-305. CITY CLERK. The city clerk shall:
 (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
 (b) Carry on all official correspondence of the city;
 (c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
 (d) Enter every appointment of office and the date thereof in the journal;
 (e) Enter or place each ordinance of the city in the ordinance books after its passage;
 (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.
(Code 1978; 1-206:212; Code 1994; Code 2003)
- 1-306. SAME; FISCAL RECORDS. The city clerk shall:
 (a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;
 (b) Assist in preparing the annual budget;
 (c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;
 (d) Keep an accurate account of all bonds issued by the city;
 (e) Keep a record of all special assessments.
(Code 1978. 1-206:212; Code 1994; Code 2003)
- 1-307. SAME; SEAL; OATHS. The city clerk shall:
 (a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;
 (b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
 (c) Keep suitable files of all such oaths required to be deposited in his or her office.
(Code 1978, 1-206:212; Code 1994; Code 2003)

- 1-308. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes.
(Code 1978, 1-206:212; Code 1994; Code 2003)
- 1-309. ASSISTANT CITY CLERK. (a) The office of assistant is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.
(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.
(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.
(Code 1994; Code 2003)
- 1-310. CITY TREASURER. The city treasurer shall:
(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;
(b) Publish a quarterly financial statement;
(c) Deposit all public moneys and sign all checks of the city;
(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;
(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
(K.S.A. 10-803; K.S.A. 12-1608; Code 1978, 1-213:214; Code 1994; Code 2003)
- 1-311. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
(a) Attend meetings of the city governing body when so directed to attend by the governing body;
(b) Advise the city governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
(c) When requested by the city governing body; give opinions in writing upon any such questions;
(d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
(e) Approve all ordinances of the city as to form and legality;
(f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
(g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;

(h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
(Code 1978, 1-215; Code 1994; Code 2003)

1-312.

CITY SUPERINTENDENT. The city superintendent shall be appointed on the basis of his or her qualifications and need not be a resident of the city. Except as otherwise provided by law or the ordinances of the city, the city superintendent shall:

(a) Manage, direct, control and supervise all the utility, maintenance and general services of the city;

(b) Recommend to the mayor and city council for hiring of all employees, other than employees of the City Office and Police Department;

(c) Supervise, direct and assign the duties of employees, other than employees of the City Office and Police Department;

(d) Have the care and management of all city-owned land, property, buildings and equipment;

(e) Develop and prepare such planning, short-range as well as long-range, as the governing body shall request and shall submit such planning to the governing body for action;

(f) Attend all meetings of the governing body and such other meetings of commissions and other organizations as the governing body shall designate and shall regularly report on the status of the city and its services to the governing body;

(g) Make such recommendations to the governing body as are deemed necessary for effective administration of all city services;

(h) Keep a record of the number of gallons of water pumped, the gallons of water metered, the cost of pumping, the number of kilowatt hours of electricity generated and the cost of generation;

(i) Have supervision of the inspection of all plumbing and wiring installations in the city;

(j) Recommend to the governing body projects for the improvement or enlargement of the water and light plant and shall supervise these projects on approval by the governing body;

(k) Make and keep up-to-date a map showing the water mains, gate valves and fire hydrants of the city and file the same in the office of the city clerk;

(l) Perform such other duties as provided for in the City Code and as the governing body may direct.

(Code 1994; Code 2003)

1-313.

CHIEF OF POLICE. The Chief of Police shall be appointed by the Mayor, with the consent of the city council and shall be certified by the Kansas Law Enforcement Training Center as a law enforcement officer. In addition to his duties and responsibilities as prescribed by law and the ordinances of the city, the chief of police shall:

(a) Manage and direct the law enforcement efforts of the city police department.

(b) Manage, direct and supervise all employees of the police department.

(c) Recommend to the mayor and city council for hiring of all police officers and department employees.

(d) Attend meetings of the city council as requested by the mayor and/or city council and report regularly on the status of the police department and its operations.

(e) Make such recommendations to the governing body as are deemed necessary for effective law enforcement and the efficient operations of the police department.

1-313A.

NIGHT WATCHMAN; APPOINTMENT, CONTROL, RESTRICTIONS, AND DUTIES. From time to time as determined in the best interest of the city by the city council, the city council can appoint a night watchman on either a full or part time basis. The night watchman so appointed shall be under the control and supervision of the city marshal-chief of police on a day-to-day basis. It shall be the duty of the night watchman to patrol the city streets and alleys in a vehicle provided and maintained by the city, during late evening and early morning hours as determined by the city marshal-chief of police. The authority and scope of employment of the night watchman is expressly limited to that of observation and patrol of the city streets and alleys with the direction that the night watchman is to observe and note all abnormal activity of individuals and vehicles but in no event is the night watchman empowered with any police powers and is not to leave his vehicle to investigate any activity, but rather is directed, upon the observation an abnormal or unusual activity, to contact the city marshal-chief of police or other appropriate law enforcement officers or agencies.
(Ord. 396, Sec. 1-220; Code 1994; Code 2003)

1-314.

APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments.
(Code 1994; Code 2003)

1-315.

CONFLICT OF INTEREST. (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

(1) In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or

(2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or

(3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.

(b) The prohibitions contained in subsection (a) of this section shall not apply to the following:

(1) Contracts let after competitive bidding has been solicited by published notice; and

(2) Contracts for property or services for which the price or rate is fixed by law.

(K.S.A. 75-4301; Code 1994; Code 2003)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-401. PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the documents entitled "Uniform Personnel Rules and Regulations for the City of St. Francis, Kansas" and "Harassment in the Workplace Policy – City of St. Francis". No fewer than three copies of each document shall be marked or stamped "Official Copy as adopted by the Code of the City of St. Francis" and which there shall be attached a copy of each policy to the end of this chapter. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary.
(Code 1978, 1-401:416; Code 1994; Code 2003)

1-402. EMPLOYEE BENEFITS. (a) The city, in accordance with provisions of K.S.A. 12-16, 102 and Charter Ordinance No. 2 of the city, does hereby establish an employee benefits contribution fund for the purpose of paying the city's share of employee benefits prescribed by subsection (b) of this section.
(b) The city's share of the cost of employee benefits authorized for payment from the fund created by subsection (a) of this section shall include the following:
(1) Social security (FICA);
(2) Kansas Public Employees Retirement System (KPERs);
(3) Workmen's compensation benefits;
(4) Employment security, unemployment compensation benefits;
(5) Medical, health, hospitalization insurance and employee's deductible;
(6) Employee uniform contribution.
(Ord. 415, Secs. 1:2; Code 1994; Code 2003)

ARTICLE 5. OATHS AND BONDS

1-501. OATH. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:
"I do solemnly swear (of affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____(here enter name of office or position). So help me God."
(K.S.A. 75-4308; Code 1978, 1-301; Code 1994; Code 2003)

1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk.
(Code 1978, 1-302; Code 1994; Code 2003)

- 1-503. **BONDS REQUIRED.** (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to-wit:
- (1) City treasurer - \$10,000;
 - (2) City clerk - \$10,000;
 - (3) Assistant city clerk - \$10,000;
 - (4) Clerk of municipal court - \$1,000;
 - (5) Judge of municipal court - \$1,000.
- (b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.
(Code 1978, 1-303; Code 1994; Code 2003)
- 1-504. **SAME; PREMIUMS.** All premiums on surety bonds shall be paid by the city.
(K.S.A. 78-111; Code 1978, 1-305; Code 1994; Code 2003)
- 1-505. **CONDITION OF BONDS.** Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office.
(Code 1978, 1-304; Code 1994; Code 2003)
- 1-506. **APPROVAL OF BONDS.** All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas.
(Code 1978, 1-306; Code 1994; Code 2003)

ARTICLE 6. OPEN RECORDS

- 1-601. **POLICY.** (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
(Code 1994; Code 2003)
- 1-602. **RECORD CUSTODIANS.** The record custodian(s) appointed and designated pursuant to this article shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record.
(Code 1994; Code 2003)

- 1-603. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.
(Code 1994; Code 2003)
- 1-604. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office.
(Code 1994; Code 2003)
- 1-605. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.
(Code 1994; Code 2003)
- 1-606. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purpose of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
 - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
 - (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
 - (d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
 - (e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
 - (f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
- (Code 1994; Code 2003)
- 1-607. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designation.
- (Code 1994; Code 2003)

- 1-608. **DUTIES OF CUSTODIAN.** All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
(Code 1994; Code 2003)
- 1-609. **REQUESTS TO BE DIRECTED TO CUSTODIANS.** (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their request to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.
(Code 1994; Code 2003)
- 1-610. **FEE ADMINISTRATION.** The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amount shall be periodically audited by the clerk-finance officer and treasurer of the city.
(Code 1994; Code 2003)
- 1-611. **INSPECTION FEE.** (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$25 per hour per employee engaged in the record search. A minimum charge of \$25 shall be charged for each such request.
(Code 1994; Code 2003)
- 1-612. **COPYING FEE.** (a) A fee of \$.50 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.
(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.
(Code 1994; Code 2003)

1-613. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$100.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.
(Code 1994; code 2003)

1-614. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city.
(Code 1994; Code 2003)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

1-701. PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

(a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.

(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services.
(Code 1978, 1-501:506; Code 1994; Code 2003)

1-702. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereinafter described be invested:

(a) In temporary notes or no-fund warrants issued by such investing governmental unit:

(b) In time deposit, open accounts or certificates of deposit with maturities of not more than two years;

(1) In commercial banks which have offices located in such investing governmental unit; or

(2) If the office of no commercial bank is located in such investing governmental unit, then in commercial banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(c) In time certificates of deposit with maturities of not more than two years:

(1) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or

(2) If the offices of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(d) In repurchase agreements with:

(1) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or

(B) if no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (I) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or

(3) If no bank, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (I) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the State of Kansas;

(e) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with the following, which is doing business within the State of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer which is registered in compliance with the requirements of section 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and amendments thereto.

(f) The municipal investment pool fund;

(g) The investments authorized and in accordance with the conditions prescribed in section 2 of the municipal investment pool fund act;

(h) The trust departments of commercial banks which have offices located in such investing governmental unit or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided under K.S.A. 9-1402, and amendments thereto. Investments of public moneys under this paragraph shall be limited to those investments authorized under subsection (b) of section 1 of the municipal investment pool fund act.

(i) The investments authorized in paragraphs (e), (f), (g) or (h) of this section shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraphs (b) or (c) of this section available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (I) of K.S.A. 75-4201, and amendments thereto.

(K.S.A. 12-1675, as amended; Code 1978, 1-501:506; Code 1994; Code 2003)

1-703.

PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations.

(Code 1978, 1-501:506; Code 1994; Code 2003)

1-704.

CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the above mentioned officers.

(Code 1978, 1-501:506; Code 1994; Code 2003)

1-705. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city.
(Code 1978, 1-501:506; Code 1994; Code 2003)

1-706. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law.
(Code 1978, 1-501:506; Code 1994; Code 2003)
See K.S.A. 12-1677, and amendments thereto

ORDINANCE NO. 459

AN ORDINANCE ESTABLISHING A DEFERRED COMPENSATION PLAN FOR THE EMPLOYEES OF THE CITY OF ST. FRANCIS, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. FRANCIS, KANSAS:

SECTION 1. To enable the City of St. Francis to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the City of St. Francis hereby elects to join and participate in the Kansas Public Employees Deferred Compensation Plan, as authorized by K.S.A. 75-5529a and 75-5529b.

SECTION 2. There is hereby established a city deferred compensation committee, which shall consist of a minimum of three officers and employees of the city. The city superintendent shall be a member and chairman of the committee. The city clerk shall be a member and secretary of the committee. The remaining members shall be appointed by the mayor and shall serve until replaced by a new appointee.

SECTION 3. The city clerk is hereby charged with the duties of serving as local administrator of the plan and shall provide forms to all city employees to specify the amount of any compensation voluntarily deferred, make appropriate reductions from the gross compensation of conditions established under the Plan Joinder Agreement, and serve as secretary of the deferred compensation committee established by Section 2.

SECTION 4. The City of St. Francis, being authorized to become a joint contract owner with the State of Kansas of group annuity contract issued by Aetna Life Insurance and Annuity Company, in conjunction with the Kansas Public Employees Deferred Compensation Plan, hereby authorized and approves execution of a Plan Joinder Agreement and a Contract Joinder Agreement to implement a deferred compensation plan. Such agreements shall be signed by the Mayor.

SECTION 5. The city clerk shall periodically cause an accounting to be made to each employee participating in the city's deferred compensation plan of the amount contributed and such other information as may be required by the committee. The city shall not be responsible for any loss incurred by an employee under the city's deferred compensation plan adopted and approved by this ordinance.

SECTION 6. This ordinance shall be published once in the official city newspaper, The St. Francis Herald.

**UNIFORM PERSONNEL RULES AND REGULATIONS FOR
THE CITY OF ST. FRANCIS, KANSAS**

SECTION 1 EMPLOYMENT POLICY STATEMENT

In the course of furnishing service to the citizens of St. Francis, Kansas, for the tax money thereof, and maintaining utility services, streets and all related equipment, it is recognized that qualified and efficient employees must be engaged to perform the necessary activities. These rules and regulations are designed to attract and retain qualified personnel and to promote and increase the efficiency and effectiveness of city services. All policies, rules and regulations are to apply to all employees in the service of the city except elected and/or appointed officials and are to be applied without regard to race, color, sex, disability, religion, age, national origin, or ancestry. These policies, rules and guidelines do not create contractual employment rights; rather all employees are to be considered as at-will employees for the purposes of city employment.

SECTION 2 PERSONNEL RECORDS

The city clerk shall keep adequate records of all persons employed, their pay scale, time worked, accrued vacation and sick leave, all absences for vacation, sick or other leave, and any and all other regulations or under applicable State or Federal law. An employee's personnel file shall be available during office hours for inspection by that employee.

SECTION 3 FULL TIME EMPLOYEE

A full time employee is one engaged to work a normal workweek of at least 40 hours on a regular and continuing basis. Each employee engaged by the city shall be subject to a training and performance review period and shall be considered by the city on temporary employment beginning on the hiring date and for a period of six (6) months thereafter. The training and performance review period shall be for the purpose of indoctrination and review of the applicant's ability, performance, and ability to adjust to the city's policies. City fringe benefits shall not apply during this period, provided however, that health benefits shall commence approximately 90 days after date of employment depending upon the city's health insurance carrier's enrollment processes. If accepted after the six (6) month training and performance review period, the employee shall be reclassified as a permanent full time employee and all fringe benefits shall be commenced and computed from the first day of employment, except as herein noted as otherwise. The city retains the right to discharge any employee prior to the completion of the training and performance review period or at any other time in the sole discretion of the city.

SECTION 4 PART TIME EMPLOYEES

Any employee working less than 120 hours per month average shall be considered a part time employee. Part time employees shall not be entitled to any fringe benefits except city recognized holidays. Payment for the holidays to part time employees shall be based on the normal work day for that employee, provided the holiday was a normally scheduled work day and further provided that the part time employee reports to work on both the first regularly scheduled work day immediately preceding the holiday and the first regularly scheduled work day immediately following the holiday, unless specifically excused by the city.

SECTION 5 TEMPORARY EMPLOYEES

Due to extra-ordinary work conditions, the need for seasonal employees, and other unforeseen circumstances, it may become desirable for the city to engage extra employees for an indeterminate period of time. Such employees shall be classified as temporary for a period of time not to exceed six (6) months. Temporary employees shall not be entitled to any fringe benefits except city recognized holidays. Any temporary employee who works continuously on a full time basis (120 hours per month minimum) shall be reclassified as permanent after the completion of six (6) months service. Any employee who becomes reclassified as permanent shall be entitled to all city fringe benefits with all benefits accruing from the date of reclassification as permanent.

SECTION 6 SALARIES

The salaries of each employee of the city, except those appointed officers, whose salary may be set specifically by ordinance, shall be reviewed on an annual basis, and, as determined in the sole discretion of the governing body, adjusted to ensure that similar salary scales will be applied to all full time positions which involve like work. However, the governing body shall consider additional factors such as job performance and time of service to the city in determining an individual employee's salary. Pay increases shall not be routine or automatic and shall be always established by the governing body. Annual cost of living increases may be considered and be given at the sole discretion of the governing body.

SECTION 7 PERFORMANCE EVALUATIONS

Employee performance evaluations will be considered in determining salary increases and decreases, as a factor in promotions, as a factor in determining the order of layoffs, and as a means of identifying employees who should be promoted or transferred, or who, because of their low performance, should be demoted or dismissed. Annual evaluations of the performance of each employee based upon his or her duties or responsibilities shall then be prepared by the employee's immediate supervisor on forms approved by the governing body. Any employee receiving a poor performance rating shall be evaluated by his supervisor on a quarterly basis. Each employee shall be entitled to review his performance evaluation and given the opportunity to respond in writing to the same. All written evaluations and any responses thereto shall be kept in the employee's employment file.

SECTION 8 HOURS OF WORK

The basic workweek for which salaries will be paid shall be based upon a 40-hour workweek except for full time police officers. Employees will be expected to work additional hours necessary in emergency situations. Time of work and assignment of certain shifts for all city employees except police and the staff of the city office shall be made by the city superintendent. The chief of police shall make work assignments for the police department. The city clerk shall determine the hours of operation for the city office. Final approval for all work schedules shall be at the discretion of the governing body.

SECTION 9 OVERTIME WORK

Compensation for authorized overtime work shall be at the rate of one and one-half (1 ½) times the employee's regular rate of pay. Overtime compensation shall be paid not later than the first payday following the pay period in which it was earned. No person employed in an administrative, executive or professional position, as defined by the Fair Labor Standards Act, shall be eligible for overtime compensation. Employees shall be eligible to receive overtime compensation for all hours worked in

excess of their normal workweek, except for full time police officers. A work period for police officers must be established under the Fair Labor Standards Act. Full time police officers shall be paid straight time for 171 hours in a 28 day work period and eligible to receive overtime compensation of one and one-half (1 ½) times the employee's regular rate of pay for work hours in a 28-day work period which exceeds 171 hours, or for a proportionate number of hours worked in a fewer number of days.

SECTION 10 PAY PERIOD

Employees shall be paid every two weeks, and the paychecks shall be issued every other Friday for the two-week period ending the preceding Thursday night at 12:00 midnight. Any overtime accumulated during such pay period shall be paid on the following two-week pay period.

SECTION 11 HOLIDAYS

The city shall honor the following holidays:

1. New Years Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Veterans Day
6. Thanksgiving Day
7. Friday following Thanksgiving
8. Christmas Day

All employees shall receive 8 hours regular scheduled pay for the above holidays provided that the employee reports to work on both the first regularly scheduled workday immediately preceding the holiday and the first regularly scheduled workday immediately following the holiday, unless specifically excused by the city.

When New Years Day, Independence Day, Veterans Day, or Christmas falls on Saturday or Sunday, the preceding Friday or following Monday may be declared a holiday by the governing body.

Employees, except employees assigned to a twenty-four (24) hour work shift or other split-shift schedules, that are required to work on a city observed holiday shall be granted an 8-hour alternative day off. Employees who as a result of the requirements of their job are required to work split shifts (plant operators and police officers) may, with the approval of their department head, elect to receive, in lieu of double time for the holiday worked, an additional designated day off.

SECTION 12 VACATION

Each employee shall be entitled to 80 hours vacation with regular pay upon completion of one (1) year's continuous service from the date of employment. Each employee shall be entitled to 120 hours vacation with regular pay after fifteen (15) years continuous service. Vacations shall not be cumulative and all hours of vacation in excess of the permissible maximum shall be removed from the employee's credit at the end of the anniversary year with no compensation being granted.

The dates of the taking of vacation leave shall be scheduled in consultation with the employee's supervisor and department head. In cases where the requested vacation schedules of two or more employees would adversely effect the efficient operation of the city, vacation leave shall be granted on the basis of seniority of city employment. City holidays that occur during the taking of an employee's

authorized vacation leave will not be counted as vacation time. Employees may use vacation leaves in units of not less than one hour, subject to approval of their supervisor. In the event of termination, an employee shall be compensated for all earned but unused vacation leave at their final rate of pay.

If an employee is on vacation and it is required to return to work, he shall receive his regular straight time pay for all regular work hours. All remaining days of vacation for that requested vacation period may be credited to the employee's record for advance at a future date, but the deferral period shall not exceed one year.

If an employee does not return to work at the end of his vacation period, he shall be subject to discharge five (5) days after written notification to his last address, which was furnished to the city in writing by the employee.

SECTION 13 SICK LEAVE

Full time employees of the city shall be entitled to eight (8) hours of sick leave for each full month of service up to 96 hours sick leave per year. Sick leave shall accumulate on the basis of the unused portion of each employee's 96 hours allowance per year up to a maximum of 288 hours. When an employee has exhausted his accumulated sick leave for that year, the employee may elect to use his accumulated vacation credit during any sick leave period.

Any absence for a fraction or part of a day, which is chargeable to sick leave, shall be charged in increments of not less than one hour.

For sick leave in excess of three (3) workdays, a department head or supervisor may require a signed statement from a health care provider verifying the employee's inability to perform his or her assigned duties because of illness. To be eligible for paid sick leave, an employee, or his or her representatives, shall notify his or her immediate supervisor and give the reason for the absence by the beginning of the first work day for which sick day is taken. An employee shall not be paid for any unused sick leave upon termination of his or her employment with the city.

SECTION 14 MATERNITY LEAVE

An employee who becomes pregnant or whose spouse/partner gives birth may claim and receive maternity leave in the same manner as provided for sick leave; provided, however, that the employee may elect to utilize any accrued vacation leave, if, and to the extent, such leave is available. An employee may also take leave without pay in the same manner as any other employee on leave without pay status. Maternity leave with or without pay, following the termination of the pregnancy, shall not exceed a total of 42 calendar days. If medical complications related to the pregnancy exist, an employee may, with the approval of the governing body, remain on maternity leave until the employee's physician releases the mother.

SECTION 15 FUNERAL LEAVE

Employees securing permission from their immediate supervisor will be paid their regular rate of pay while attending funerals for an immediate member of their family (to include only the spouse, children, mother, father, brother, sister, grandparents or like close relatives by marriage) provided they attend said funeral. Paid time allowed for attending funerals shall not exceed 8 hours. All other funeral time off shall be taken at the employee's time without pay. However, the employee may elect to use his accumulated vacation for any funeral time off or elect to have it charged against any unused sick leave.

If the employee elects to take funeral leave without pay, then the same requires the approval of his or her department head.

SECTION 16 WORK RELATED INJURY

Any employee injured or disabled while on duty and while obeying the safety rules of the city, shall continue to be paid his regular wage less workman's compensation received for a period of disability not to exceed one (1) year.

SECTION 17 CIVIL LEAVE

An employee shall be given necessary time off, with pay, when performing jury duty or when appearing in an official capacity in connection with the city in court, or in connection with a court case, as a witness and in answer to a subpoena. If an employee is involved in a personal lawsuit either as a plaintiff, defendant, or witness in an action not related to his or her duties with the city, the employee may take leave without pay unless he or she elects to utilize any accumulated vacation time.

SECTION 18 OTHER LEAVE

An employee may be granted leave, with pay to attend meetings, seminars and conventions related to the employee's work for the city when the governing body authorizes such attendance.

An employee, upon written request, and at the sole discretion of the governing body, may be granted leave without pay for a period of one (1) year to further his or her education or seek specialized training, upon recommendation by the employee's department head.

An employee, upon written request, and with the recommendation of his or her department head, may be granted a leave of absence without pay for a period up to six (6) months, subject to the approval of the governing body.

SECTION 19 HEALTH INSURANCE

All full time employees, including full time supervisory appointed employees, shall be eligible for the city's group health insurance program within 90 days after the commencement of their employment with the city and depending upon the city's health insurance carrier's enrollment processes. Other employees and elected or appointed officials shall not be eligible for participation in the city's group health insurance program without the prior approval of the governing body and then only in the situation where the health insurance premium is paid by the part time or temporary employee or the elected or appointed official. The covered employee shall pay all costs for health care insurance during any period the employee is on leave or suspension without pay or on unauthorized leave or is participating in any unlawful work stoppage.

Health insurance coverage shall be extended to any full time employee injured or disabled while on duty and while obeying the safety rules of the city for a period of disability not to exceed one (1) year.

No city employee shall be entitled to a cash payment in lieu of health insurance coverage.

Retirees of the city, under age 65, shall be eligible for continued participation in the city's health insurance plan upon their payment of all costs thereof, in accordance with the provisions of K.S.A. 12-5040. In addition, the city will comply with the provisions of the Federal Consolidated Omnibus

Reconciliation Act of 1986 (COBRA) relating to the extension of group health insurance plan coverage upon termination of city employment.

SECTION 20 OTHER EMPLOYEE BENEFITS

Other city sponsored and/or funded employee benefits are set forth in Section 1-402 of the Code of the City of St. Francis, Kansas, as amended.

SECTION 21 ADDITIONAL CITY POLICIES

In addition to the policies hereinbefore set out, the city has adopted the following policies:

Harassment in the Workplace on the 5th day of April, 1994; and

Drug and Alcohol Testing Policy and along therewith an Employee Assistance Program on January 16, 1996.

Both of these policies are incorporated herewith as if fully set out herein and are available for review at the office of the city clerk.

The changes to the Uniform Personnel Rules and Regulations for the City of St. Francis, Kansas, as amended, were reviewed, approved and adopted by the governing body of the City of St. Francis, Kansas, this 7th day of March, 2000.

No fewer than three (3) copies of these Uniform Personnel Rules and Regulations for the City of St. Francis, Kansas, shall be marked or stamped “Official Copy as adopted by the Code of the City of St. Francis, Kansas”. Said official copies shall be filed with the city clerk and shall be opened to inspection and available to the public at all reasonable hours.

The city clerk is hereby directed to ensure that each current employee of the City of St. Francis, Kansas, be given a copy of these rules and regulations for their review and that all employees hired in the future also be given a copy.

/s/ **Scott Schultz, Mayor**

Attest:

/s/ Deanna Forsythe, City Clerk, CMC

HARASSMENT IN THE WORKPLACE POLICY

CITY OF ST. FRANCIS

I. PURPOSE

The purpose of this policy is to maintain a healthy work environment and to provide procedures for reporting, investigation and resolution of complaints of harassment, sexual or otherwise.

II. DISCUSSION

It is the policy of this city that all employees have the right to work in an environment free of all forms of harassment. The city does not condone, and will not tolerate, any harassment. Therefore, the city shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, sexual or otherwise.

III. DISCUSSION

A. PROHIBITED ACTIVITY

1. No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person.
2. Employees shall not make offensive or derogatory comments based on race, color, sex, religion or national origin either directly or indirectly to another person. Such harassment is a prohibited form of discrimination under state and federal employment law and is also considered misconduct subject to disciplinary action by this city.
3. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
 - b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

B. EMPLOYEE'S RESPONSIBILITIES

1. The city superintendent and city clerk shall be responsible for preventing acts of harassment. This responsibility includes:

- a. Monitoring the work environment on a daily basis for signs that harassment may be occurring;
 - b. Counseling all employees on the types of behavior prohibited, and the agency procedures for reporting and resolving complaints of harassment;
 - c. Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his line of supervision; and
 - d. Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment, pending investigation.
2. The city superintendent and city clerk have the responsibility to assist any employee of this city, who comes to that person with a complaint of harassment, in documenting and filing a complaint with the mayor.
 3. Each employee of this city is responsible for assisting in the prevention of harassment through the following acts:
 - a. Refraining from participation in, or encouragement of actions that could be perceived as harassment;
 - b. Reporting acts of harassment to a city superintendent or city clerk; and
 - c. Encouraging any employee, who confides that he is being harassed, to report these acts to either the city superintendent or city clerk.
 4. Failure to take action to stop known harassment shall be grounds for discipline.

C. COMPLAINT PROCEDURES

1. Employees encountering harassment shall tell the person that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
2. Any employee who believes that he is being harassed shall report the incident(s) to the city superintendent or city clerk as soon as possible so that steps may be taken to protect the employee from further harassment, and appropriate investigative and disciplinary measures may be initiated. Where this is not practical, the employee may instead file a complaint with the mayor.
 - a. The city superintendent or city clerk to whom a complaint is given shall meet with the employee and document the incidents complained of, the person(s) performing or participating in the harassment, and the dates on which it occurred.
 - b. The city employee taking the complaint shall expeditiously deliver the complaint to the mayor.

3. The mayor shall be responsible for the investigation of any complaint alleging harassment.
 - a. The mayor shall immediately notify the city council and the city attorney if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape.
 - b. The mayor shall include a determination whether other employees are being harassed by the person, and whether other city employees participated in, or encouraged the harassment.
 - c. The mayor shall inform the parties involved of the outcome of the investigation.
 - d. A file of harassment complaints shall be maintained by the city clerk in a secure location. The city council shall be provided with an annual summary of these complaints.
4. There shall be no retaliation against any employee for filing a harassment complaint, or assisting, testifying, or participating in the investigation of such a complaint.
5. Complainant or employees accused of harassment may file a grievance/appeal in accordance with city procedures when they disagree with the investigation or disposition of a harassment claim
6. This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.

BY ORDER OF THE CITY OF ST. FRANCIS, KANSAS, THIS 5TH DAY OF APRIL, 1994.

/s/ JEFF N. RAILE, Mayor

(Adopted April 5, 1994; Code 2003)

CITY OF ST FRANCIS
EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City of St. Francis has the responsibility of providing a safe, healthy and efficient work environment for all safety sensitive employees. In an effort to enhance the personal wellbeing of the City of St. Francis employees and their immediate family members and to contain the rising health care premiums of its work force, the city council of City of St. Francis has chosen to make an Employee Assistance Program (EAP) available to all safety sensitive employees and their immediate family members.

POLICY

The city council of the City of St. Francis will provide an employee Assistance Program for all safety sensitive employees and their immediate family members.

- A. The EAP will be available for use on a voluntary basis as well as for mandatory referrals.
- B. The EAP will provide assessment and referral services.
- C. The EAP will offer thorough and complete confidentiality.
- D. The Mayor of City of St. Francis shall be responsible for oversight and maintenance of the EAP and will provide, with the support of City of St. Francis, high level direction and promotion of the EAP.
- E. The EAP will provide training and education for all safety sensitive employees on how to utilize the program and will provide additional training and education for supervisors who will be allowed to make mandatory referrals.

PROCEDURE

The EAP "Supportline" 1-800-989-1196 will be coordinated by an external agency, the Mental Health Consortium, Inc. This program will include a toll-free 800 number, available 24 hours a day to be answered by a master's level mental "health professional who will provide telephone counseling, and if requested by the caller, referral to appropriate services for further assistance. The 800 # and the policy will be provided to each individual safety sensitive employee and be available on company bulletin boards.

VOLUNTARY REFERRAL

The EAP will be available to all safety sensitive employees and immediate family members to utilize at their own discretion as needed. Unlimited access is available. This process will involve the employee or family member merely dialing the 800 number and discussing the problem with a mental health professional. If requested by the caller and/or if appropriate, a referral will be made to appropriate resources to deal with the problem.

MANDATORY REFERRAL

Mandatory referrals may be made to the EAP by the supervisors of the City of St. Francis. A mandatory referral shall be the result of a documented problem or problems related to poor job performance on the part of the employee. If a mandatory referral is made by a supervisor, the referral form shall be completed by the supervisor, signed by the employee and the form forwarded to mayor of City of St. Francis (See exhibit "a"). Mayor of City of St. Francis will contact the EAP counselor to alert them to the required contract. The employee will have 48 hours from after signing the referral form to contact an EAP counselor by calling hours from after signing the referral form to contract an EAP counselor by calling the 800 number and setting up a face-to-face meeting with appropriate referral sources. The EAP counselor will confirm contact from the employee by notifying the mayor of City of St. Francis. Failure

to contact the EAP counselor within 48 hours without just cause may be grounds for disciplinary action, including termination.

In the case of a mandatory referral for drug testing, the supervisor will accompany the employee to be tested to the testing site.

CONFIDENTIALITY

The Employee Assistance Program Administrator (Mental Health Consortium, Inc.) shall maintain only those records necessary to comply with the program. After a supervisor refers an employee to the EAP, the EAP will maintain all records necessary to carry out its duties. All medical and/or rehabilitation records concerning the employee's problem, including the employee's identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only when authorized through written consent of the employee.

LEAVE ALLOWANCE

A. VOLUNTARY REFERRAL

Employees will be allowed to utilize their accrued leave to voluntarily access the EAP, should such appointment(s) be necessary during their normal working hours. City of St. Francis would encourage employees to pursue assessment and counseling during off duty hours whenever possible.

B. MANDATORY REFERRAL

Employees' leave will be used for referral and assessment sessions which are mandated by the employee's supervisor, or the mayor of City of St. Francis. Further, counseling activities beyond referral and assessment will be the responsibility of the employee.

TRAINING AND EDUCATION

The EAP will provide an initial training and education program for employees to familiarize them with the program and its process. The Mental Health Consortium will provide two additional hours of training and education for supervisors to provide background on drugs and information for appropriate mandatory referrals through documented job performance incidents. As a result of this training, a supervisor may determine whether an employee may be drug tested for reasonable suspicion.

INFORMATIONAL MATERIAL

Through the Employee Assistance Program of the Mental health Consortium informational materials in the form of posters, payroll stuffers and pamphlets will be made available to employees on a regular basis.

PASSED BY THE GOVERNING BODY OF THE CITY OF ST. FRANCIS, THIS 4TH DAY OF JANUARY, 1994.

/s/ JEFF N. RAILE, MAYOR, City of St. Francis,

Kansas

Attest:

/s/ DEANNA FORSYTHE, City Clerk, City of St. Francis, Kansas

(Adopted January 4, 1994; Code 2003)

CITY OF ST. FRANCIS

DRUG AND ALCOHOL TESTING POLICY

Referenced throughout this document are drug and alcohol testing protocols which apply specifically to the activities of the Mental Health Consortium on behalf of the contracting organizations who participate in the Consortium’s Drug and Alcohol Testing Pools. A copy of this protocol is available to augment the contents of this Drug and Alcohol Testing Policy.

**DRUG AND ALCOHOL TESTING POLICY
APPROVAL**

We have reviewed and concur with the contents of the City of St. Francis’ drug and alcohol testing policy. Our signatures indicate approval of the policy and its contents.

/s/	Jeff N. Raile, Mayor	1-16-1996
/s/	Dale Henderson, Council Member	1-16-1996
/s/	Pete Jensen, Council Member	1-16-1996
/s/	Ernest Lebfrom, Council Member	1-16-1996
/s/	Robyn Raile, Council Member	1-16-1996
/s/	Doug Ross, Council Member	1-16-1996
/s/	Michael J. Day, City Attorney	1-16-1996

DRUG AND ALCOHOL TESTING POLICY

The City of St. Francis recognizes that the use and abuse of drugs and alcohol in today’s society is a very serious problem which has also found its way into the work place. City of St. Francis also recognizes the significant threat that a drug-impaired employee working in the transportation industry can pose to the safety of the worker, co-worker and the general public. In order to address the safety threat presented by the problem of drug and alcohol abuse in the transportation industry, the Department of Transportation, and the Federal Highway Administration have established extensive regulations requiring drug and alcohol testing under certain circumstances. In light of the above, City of St. Francis has adopted this Anti-Drug Plan to specify the circumstances under which drug and alcohol testing may be required, the procedures for conducting such testing and the methods and procedures for complying with the requirements of the regulations.

Additionally, The City of St. Francis’ drug and alcohol testing program is incorporated in an overall Anti-Drug Plan that is designed to create a drug free transportation industry and provide help to those employees who may suffer from problems with substance abuse. The plan has been developed in compliance with existing federal regulations in a manner which ensures accurate and reliable test results,

and thereby contains procedures designed to recognize and respect the dignity and privacy of all of our employees. More importantly, we recognize that our employees are our most valuable resource and we want to assist any employee who feels that he or she may have a problem with substance abuse.

A separate policy defines the employee assistance program of the City of St. Francis, which is also a part of the mandated requirements. City of St. Francis has adopted the following anti-drug program, effective January 1, 1996.

Policy

- I. The use, possession, sale or distribution of illegal drugs or drug paraphernalia, or the improper or abusive use of legal drugs, alcohol or other intoxicating substances while on city property or other work locations and/or during work hours is strictly prohibited.
 - A. The above provision is applicable to all City of St. Francis employees who perform covered work.
 - B. The city will utilize all reasonable measures to maintain a drug free workplace for its employees, customers, and the general public.
 - C. Cooperation and compliance with the City of St. Francis' Drug and Alcohol Testing Policy (as with all other city policies and procedures) is a condition of continued employment for all employees involved in safety sensitive positions.
 - D. The City of St. Francis' Drug and Alcohol Testing Policy is in compliance with the Federal Drug Free Workplace Act of 1988; the Federal Motor Carrier Safety Regulations (49 CFR Part 391) Federal Highway Administration (FHA) Park 382; and, the Motor Carrier Regulations of the Transportation Division of the Kansas State Corporation Commission (82-4-3). All collection and testing procedures will specifically follow the regulations set forth in 49CFR Part 40 for drugs and alcohol.
 - E. For the purpose of assuring compliance with the above, both employees and applicants for safety sensitive positions will be subject to a drug screening.
 - F. The city council of the City of St. Francis under its own authority will test all employees/applicants for purposes of pre-employment screening, reasonable suspicion, and post-accident investigation.
- II. The city council of City of St. Francis has established the following factors in designating specific positions as safety sensitive.
 - A. Drivers of commercial vehicles:
 1. with a gross vehicle weight rating of 26,001 pounds or more or combination vehicles (weighing at least 26,001 pounds) or
 2. designated to transport 16 or more passengers including the driver or
 3. transporting hazardous materials in amounts requiring placarding.

- B. Employees engaged in the operation of power plant generators and equipment.

III. Responsibilities.

- A. The city council of City of St. Francis is responsible for the implementation and conformance of City of St. Francis' drug and alcohol testing policy to 49CFR Parts 40, 391, 382 (this includes any contractor personnel, including subcontractors and anyone employed by a subcontractor are subject to drug and alcohol testing if they perform a covered function); and for recordkeeping and confidentiality of the drug testing process. (This includes maintaining required records with respect to subcontracts.)

In addition they are responsible for observing employee behavior and performance in relation to reasonable suspicion testing.

- B. Failure to comply with this policy may lead to disciplinary action up to and including termination from employment.
- C. Unless an employee's physician has advised the employee that the controlled substance they are taking does not adversely affect their ability to safely operate a commercial motor vehicle, heavy equipment, machinery, or power generating equipment, an employee should not drive or operate equipment under the influence of a prescribed controlled substance. An employee must report the use of all prescribed controlled substances and provide City of St. Francis with a written release from their physician which states it is safe to perform the safety sensitive function.

IV.

- A. Drug screening will be conducted for the following chemicals: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines. A drug immunoassay screen will have the following thresholds for positive verification:

Marijuana Metabolite	50NG/ML
Cocaine Metabolite	300NG/ML
Opiates	300NG/ML
Phencyclidine	25NG/ML
Amphetamines/Methamphetamine	1000NG/ML

- B. When the initial screen is positive (has exceeded the established screening threshold) a second confirmation test gas chromatography/mass spectrometry (GS/MS) will be completed. The thresholds for positive confirmation for GC/MS are as follows:

Marijuana Metabolite	15NG/ML
Cocaine Metabolite	150NG/ML
Opiates	300NG/ML
Phencyclidine	25NG/ML
Amphetamines/Methamphetamine	500NG/ML

- C. Alcohol testing will be conducted by utilizing an evidential breath testing device (EBT) which meets the requirements established by the conforming products list published in the Federal Register. A reading of .04 or greater on the EBT will result in the necessity of a second test occurring within 20 minutes in order to make a determination of positive.
- D. A second EBT test of .04 or greater will result in the removal of the individual from the safety sensitive position.
- E. An initial EBT reading of .02 to .0399 will result in a second EBT test within the time frame noted in IV C above. If the second test falls within the same range the individual will be removed from the safety sensitive position until the start of the next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

V.

- A. Collection sites for drug screening specimen collection will be established by the Consortium contractor. (Specific information relating to the Chain of Custody form, (Protocol #1) laboratory analysis procedures, (Protocol #8) specimen collection procedures (Protocol #4) and blind sampling (Protocol #7) are all contained in the Mental Health Consortium's Drug and Alcohol Testing Protocol Manual.) Drug testing of the specimen will be provided through an established and accredited laboratory that has completed certification to conduct drug testing by the U.S. Department of Health and Human Services (DHHS) and Substance Abuse and Mental Health Services Administration (SAMHSA). In this instance, the laboratory of record is Clinical Reference Laboratory, 11850 W. 85th St., Lenexa, KS 66214 (PH. # 913-492-3652). The local specimen collection site for City of St. Francis is Bird City Family Clinic, Bird City, Kansas; however, other sites are available as access is necessary.
- B. Alcohol testing will be conducted by a certified Breath Alcohol Technician (BAT).
- C. Strict chain-of-custody practices will be adhered to regarding urine specimen collection, transportation to the laboratory, during laboratory analysis, MRO review and reporting to the agency.
- D. All urine specimens collected will be split-samples.
- E. Negative drug testing report results will be reported within 24 hours to the Consortium of specimen receipt at the laboratory. Positive drug testing results will be reported to the Consortium within 48 hours of receipt at the Laboratory (unless there is difficulty reaching the person being tested, by the MRO). All tests will be reported by the Consortium to the mayor of City of St. Francis. In no instance will the test go unreported longer than 5 days from the time the specimen is received from the laboratory by the Consortium.
- F. Reports of breath alcohol tests will be reported immediately to the safety sensitive employee (SSE) and the employer.

- VI. Confidentiality will be applied to every aspect of the anti-drug program.
 - A. After the MRO contacts the employee to discuss a positive confirmatory test result and a final decision is reached regarding the positive result, mayor of City of St. Francis shall serve as the sole point of contact with the City of St. Francis' Employee Assistance and Drug/Alcohol Testing Program.
 - B. All drug and alcohol testing information will receive the highest level of respect in relation to confidentiality. Information regarding an individual's testing results or rehabilitation may be released only upon the written consent of the individual, except that such information must be released regardless of consent to the Administrator or the representative of a state agency upon request as part of an accident investigation. Statistical data related to testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of a state agency upon request.
 - C. All records relating to drug and alcohol testing will be kept in a locked file, separate from other employee records.
- VII. Notification of the city's drug and alcohol testing requirement shall be included in announcements or advertisements seeking applicants for all designated safety sensitive positions as well as all positions with the City of St. Francis.
- VII. Employees who supervise employees or who have responsibility to administer the city's drug and alcohol screening policies and procedures shall receive two additional hours of training, by the Consortium Coordinator, on behavior, physical symptoms and performance indicators of probable drug and alcohol use.
 - A. All subordinate-level employees will receive appropriate instruction regarding the City of St. Francis' Drug and Alcohol Testing Policy and Employee Assistance Program (See Exhibit "C"). This shall amount to two hours of training on mandated requirements; the effects of alcohol and drugs; the process of testing; and the ramifications of a positive test.
- IX. The following conditions establishes who may be screened and under what circumstances the drug and alcohol screening may occur:
 - A. An individual offered employment and/or re-assigned to a safety sensitive position or any position with the City of St. Francis shall be required to take and pass a drug screening test as a condition of employment or continued employment. (See Exhibit "D"). (An exemption to this policy would be if the applicant/employee is participating in an appropriate DOT drug and alcohol testing program of another organization; has been involved in such a testing program within the previous 30 days; has been tested in the past 6 months or participating in the drug/alcohol testing program for the last 12 months. Written verification of drug and alcohol testing participation should be obtained for city files.) Exhibit E addresses information which must be provided. (Protocol #9)

- B. An employee in a safety sensitive position or any position with the City of St. Francis may be required to submit to a drug screening test by mayor of City Of St. Francis, based upon reasonable suspicion of drug use by the employee as reported by the employee's supervisor. All supervisory employees are required to notify Mayor when reasonable suspicion is presumed. (Refer to Protocol #3)
1. Reasonable suspicion involves a judgment made regarding the employee's behavior, appearance, speech or body odor, or evidence found or reported and may be based on, among other circumstances, one of the following:
 - a. Direct observation of specific contemporaneous, articulable behaviors exhibited by the employee which may impair the employee's ability to perform his/her job or which may pose a threat to safety or health.
 - b. Physical on-the-job observation of drug and/or alcohol use by the employee.
 - c. Documented deterioration in the employee's job performance that is likely to be attributed to drug or alcohol use by the employee.
 - d. An on-the-job incident or occurrence where there is evidence to indicate the incident or occurrence was in whole or in part the result of the employee's actions or inactions and/or the employee exhibited behavior indicating illegal drug or alcohol use.
 2. Supervisors have the right to ask a current employee in a designated safety sensitive position or any position with the City of St. Francis to submit to a drug/alcohol screening test under the circumstances of reasonable suspicion as a condition of employment in accordance with items VII and VIII of this policy. Refusal may be grounds for termination. In no instance of refusal for testing shall an individual be allowed to perform a safety sensitive function.
 3. Any employee requested to provide a drug specimen under the auspices of reasonable suspicion will be transported to the collection site. All time away from work for testing will be paid. If the test result is negative, the employee will be placed on paid leave until cleared to return to work. Upon test results being shown to be positive, the employee will be placed on unpaid leave until cleared to return to work.
 4. Under no circumstances will a SSE be allowed to perform a safety sensitive function if they have consumed alcohol within four (4) hours of reporting for duty.
 5. If an alcohol test is not administered within 2 hours of this determination, a record should be prepared stating the reasons for not administering the test. Attempts to test should cease at eight (8) hours and the individual should be removed from the safety sensitive function until they test less than .02 or 24 hours has passed. A written record should be made of the observations.

- C. Random testing (Refer to Protocol #2)
 - 1. At least 50% of the average number of safety sensitive positions will be tested on a random basis annually under the drug testing requirements.
 - 2. Under the alcohol testing requirements at least 25% of the number of safety sensitive positions shall be tested on an annual basis.
 - 3. Random selection will be made through a computerized program provided by the consortium contractor, The Mental Health Consortium.
 - a. By the 15th of each month City of St. Francis will make available to the Mental Health Consortium the names and SSN's of all employees to be covered in the random program for the next month.
 - b. The list of persons to be tested for the next month will be created through the Mental Health Consortium's computerized random number program.
 - c. The name of the person identified to be tested will be relayed to the contact person of the employer by the afternoon prior to the test date. The Employee will be notified on the morning of the test to report to the collection site not more than 30 minutes plus travel time, prior to the scheduled test time in the case of a drug collection. In the case of an alcohol test, the individual shall be tested within 15 minutes prior, during or 15 minutes after performing a safety sensitive function.
- D. Return To Duty Testing: An employee who refuses to take or fails a drug or alcohol test may not return to duty until the employee passes a drug or alcohol test administered under this part and the MRO/SAP have determined that the employee may return to duty. An employee who returns to duty shall be subject to a minimum of 6 (six) drug/alcohol tests in the first twelve months and a reasonable program of follow-up drug/alcohol testing without prior notice for up to 60 months after return to duty. The MRO/SAP will determine the schedule of unannounced testing.
- E.
 - 1. The following parameters will require drug testing for each employee performing a safety sensitive function and whose performance either contributes to the accident, or cannot be completely discounted as a contributing factor to the accident as soon as possible and not later than 32 hours after an accident. Following are the times when drug testing must occur:
 - a. If the accident involved the loss of a human life;
 - b. If the driver receives a citation under State or local law for a moving traffic violation arising from the accident.

2. Following an accident all reasonable steps to obtain a urine sample from an employee should be implemented after treating the injury first.
 - a. In the case of a conscious but hospitalized employee, the coordinator of Drug/Alcohol Testing at City Of St. Francis should notify the hospital or medical facility of the need for a sample and, if necessary, refer to the DOT drug testing requirements (Title 49 CFR Part 40).
 - b. If an employee is injured or unconscious and unable to consent to the drug test, the medical facility should collect the sample, and retain it until the employee is able to consent. If the employee gives his consent, the sample should be sent to the laboratory for testing. If the employee refuses to be tested, the sample should be discarded and the incident will be treated as a refusal to test. The treating physician should determine if the employee is able to understand a request to provide a sample.
 - c. If an employee is conscious, able to understand a request for a sample, and able to urinate normally (in the opinion of a medical professional) and refuses to be tested, that person must be suspended indefinitely pending further review.
- F. A breath alcohol test should also be administered in these same circumstances. An EBT test can occur up to eight (8) hours after the accident/incident and should be obtained as early as possibly preferably within two hours of the accident.
- G. Failure to obtain a breath alcohol test within 2 hours and a drug test within 32 hours will result in the employer preparing and maintaining on file a record stating the reasons for not promptly administering a test. Records will be submitted upon request to the Department of Transportation.
- H. Any employee testing positive under the category of random selection, reasonable suspicion, post-accident or return-to-duty will be immediately removed from performing safety sensitive work and not allowed to return to the safety sensitive position until they have passed a drug and alcohol test and cleared to return to duty by the MRO/SAP.
- I. No driver required to take a post accident test shall use alcohol for eight (8) hours following an accident or until a breath alcohol test occurs.
- J. The SSE or City of St. Francis employee who is subject to post accident testing, shall remain readily available for testing. Necessary medical attention may be secured. Failure to remain available can be interpreted as a positive test result.
- K. Results of a breath test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to applicable Federal, State or local requirements, and that the results are obtained by the employer.

- X. An applicant or employee required to submit to a drug screen will be advised of the following:
 - A. methods of drug/alcohol screening which will be used;
 - B. substances which may be identified;
 - C. consequences of a refusal to submit to a drug screening test or of a confirmed positive result, and;
 - D. reasonable efforts to maintain the confidentiality of results and any medical information which may be provided.
- XI. An applicant or employee will be required to sign the necessary drug/alcohol screening consent forms established by the city or, authorized by the collection site agency. Refusal to sign required drug/alcohol screening consent forms will be considered refusal to submit to a drug/alcohol screening test as a condition of employment and will be considered the equivalent of receiving a confirmed "positive" result for employment.
- XII. An applicant or employee shall be informed of the drug/alcohol screening specimen collection location and time. The applicant or employee shall be responsible for reporting to the collection site at the scheduled time, with a photo ID, and comply with the directions of the specimen collector.
 - A. An employee in a designated safety sensitive position who is requested to submit to a drug specimen collection shall be given time off with pay for that purpose.
 - B. Failure by an applicant or employee to report to the collection site at the scheduled time will be considered refusal to submit to a drug/alcohol screen as a condition of employment or continued employment, and will be considered the equivalent of receiving a confirmed "positive" result. The applicant or employee shall not be utilized in a safety sensitive capacity until cleared by the MRO or SAP.
- XIII. MEDICAL REVIEW OFFICER (MRO) (Reference Protocol #6)
 - A. The Medical Review Officer is an agent of the Mental Health Consortium. The qualifications and functions of the MRO are contained in the Mental Health Consortium's Protocol on MRO Responsibilities and Qualifications, which is available upon request from the Consortium.
 - B. All drug test results, whether positive or negative, will be reviewed by the MRO of the Mental Health Consortium, in accordance with 49CFR Part 40.33. In this instance, the MRO will be Sanford E. Pomerantz, M.D. of the Consortium. The MRO can be reached at 112 SW 6th St., Suite 400, Topeka, KS. 66603. The phone number is 913-232-1196.
 - C. In the event of a presumptive positive the MRO will contact the person whose specimen it was to determine what medications and or reason the test was returned positive. The MRO, based on his review of the information will make the final determination of confirmed positive or negative. It is only after the MRO review that City Of St. Francis will be notified of the outcome of the test.

- XIV. An employee in a designated safety sensitive position who is removed from the work site pending the results of a drug screening test because the employee is deemed by their immediate supervisor and mayor of City of St. Francis to pose a threat to safety or health shall be granted leave. If the test results are negative the employee will be placed on paid leave until cleared to return to work. Upon test results shown to be positive, the employee will be placed on unpaid leave until cleared to return to work.
- XV. An applicant who receives a confirmed positive drug screen result or the equivalent shall have the offer of employment withdrawn and shall be subject to disqualification from application for city employment for a period of two years from the effective date of the disqualifying action.
- XVI.
- A. An employee who receives a confirmed positive drug screen result or the equivalent and who has not previously had a confirmed positive result shall be directed to utilize the City of St. Francis' Employee Assistance Program for referral to an appropriate drug assessment and education or treatment program; provided, however, the employer reserves the right to terminate an employee receiving a first time confirmed positive drug screen result if, in addition:
1. the employee was involved in an accident or incident caused in part or in total by drug/alcohol use and injury to person/persons or property was involved, or;
 2. the employee's personnel file reflects previous disciplinary material which, when combined with positive drug/alcohol testing screen results, in the opinion of the employer justifies termination.
- B. An employee who receives a confirmed positive alcohol test shall be referred to a Substance Abuse Professional for appropriate assessment, education and treatment. The employer retains the same right to terminate as in XVI A. 1 and 2.
- C. A second positive test, whether alcohol or drug, will result in immediate termination of employment.
- XVII. The employee will be required to provide verification to the mayor of City of St. Francis that he/she is participating in an appropriate and authorized education and treatment program, prior to returning to duty in a safety sensitive position. In addition the employee must pass a return to duty drug and/or alcohol test.
- A. Absences during regular hours will be considered noncompensable.
- XVIII. Employees should consult their insurance policy for extent of nervous, mental and substance abuse coverage.
- XIX. If the employee's supervisor determines the employee poses a threat to safety or health at the work site while undergoing out-patient or post-care treatment, the employee may be relieved of his/her duties without pay until such time as he/she is deemed capable to return to regular duty by the MRO/SAP, and successfully passes a drug and/or alcohol test.
- XX. Refusal by an employee to fully cooperate with a mandatory referral (EXHIBIT A) or with any recommended education or treatment program resulting from a mandatory referral or approved drug or alcohol assessment shall be grounds for employee discipline including termination.

- A. After completion of the recommended education or treatment program, the employee is required to provide or release verification to the mayor of City of St. Francis that they have successfully completed the recommended education or treatment program.
 - B. Subsequent drug or alcohol screens will be scheduled by the MRO/SAP in consultation with City of St. Francis, as necessary, during the authorized education or treatment program and for a period of up to 60 months after the program ends to determine or verify that the employee remains drug/alcohol free. All expenses for testing in the rehabilitation process will be the responsibility of the employee.
 - C. The employee will be tested a minimum of six times in the first year of follow-up.
- XXI. Any employee who receives a confirmed positive drug or alcohol screen result shall be subject to dismissal:
- A. if the employee has previously had a confirmed positive result;
 - B. if the employee fails to successfully complete an appropriate and approved drug/alcohol assessment and recommended education and treatment program.
- XXII. An employee will not be subjected to dismissal solely on the basis of a confirmed positive result if the employee has not previously had a confirmed positive result, and the employee successfully completes an appropriate and approved drug/alcohol assessment and recommended education or treatment program.
- XXIII. Any applicant for a city position who intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures or falsifies test results shall have the conditional offer of employment withdrawn. Such actions will be grounds for disqualification for all positions in city service. Any current employee who intentionally tampers with a sample provided for drug screening, violates chain-of-custody or identification procedures or falsifies a test result shall be subject to dismissal.
- XXIV.
- A. If an employee or applicant challenges the validity or accuracy of the confirmed positive result, they may appeal in writing to the MRO within 72 hours of the employee/applicant having been notified of the positive result. All positive urine samples will be kept at the laboratory for a period of one year, and at the employees request may be kept longer. The MRO and Drug Screening Coordinator should be notified of the appeal request so that arrangements for a second analysis process can be initiated on the split sample.
 - B. The employee will be responsible for any associated retest costs in advance and will be reimbursed by City of St. Francis if the retest is negative.
 - C. Requirements for retention of samples and retesting are specifically spelled out in the Mental Health Consortium's Protocol for Drug Testing.
- XXV. The MRO will have discretion to authorize a retest by the original or a different laboratory on the split specimen, if it is determined that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or has other appropriate cause to warrant a retest.

XXVI. Record Keeping

- A. Records relating to drug/alcohol testing will be maintained as confidential, available only on a strict "need to know" basis. Records will not be kept in an employee's personnel file. Information regarding an individual's drug and alcohol testing results or rehabilitation may be released only upon written consent of the individual EXCEPT:
 - 1. such information must be released regardless of consent to a government agency as part of an accident investigation:
 - 2. such information may be disclosed regardless of consent in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug/alcohol test.
- B. Records will be maintained according to mandated requirements. The Mental Health Consortium's Protocol #10 identifies the most current requirements.

XXVII. Any changes made by City of St. Francis to this policy will be in conformance with stated regulations.

(Adopted January 16, 1996; 2003 Code)

(EXHIBIT A)

CITY OF ST FRANCIS
MANDATORY REFERRAL
AND
RELEASE OF INFORMATION

As an employee of City of St. Francis, I understand that I have been referred to the City of St. Francis' Employee Assistance Program (EAP) . I understand that I must:

- Contact the EAP counselor (SAP) within 48 hours of time designated below.
- Provide a drug test specimen.
- Submit to a breath alcohol test.

A signed copy of this waiver will be presented to the drug/alcohol consortium as notification that I am a referral from City of St. Francis. This form will serve as notice that information may be released to the Mayor of City of St. Francis. Only information regarding my notification of the EAP counselor or SAP, confirmation of a face-to-face assessment, confirmation of admittance, including date and estimated length of stay, to an appropriate treatment program, confirmation of attendance at all scheduled treatment appointments, successful completion of the treatment program or drug and/or alcohol test results may be released to Mayor.

I understand that if I do not follow the directions checked above and provide confirmation of attendance and completion, that I may be subject to disciplinary action up to and including discharge of employment with City of St. Francis.

Likewise I understand that if I am required to submit to a drug and/or alcohol test and fail to do so that I may be subject to disciplinary action up to and including discharge of employment with City of St. Francis.

Name of Employee : _____

Social Security Number: _____

SIGNATURE OF EMPLOYEE

DATE

REFERRING SUPERVISOR

DATE

MAYOR

DATE

TIME

(EXHIBIT B)

SAFETY SENSITIVE POSITIONS
CITY OF ST. FRANCIS

SAFETY SENSITIVE - The city council of the City of St. Francis has established the following factors in designating specific positions as safety sensitive. The number of safety sensitive positions may increase further as criteria are established by the city council of the City of St. Francis.

1. Drivers of commercial vehicles:
 - a. with a gross vehicle weight rating of 26,001 pounds or more or combination vehicles (weighing at least 26,001 pounds) or
 - b. designated to transport 16 or more passengers including the driver, or
 - c. transporting hazardous materials in amounts requiring placarding.
2. Employees engaged in the operation of power plant generators and equipment.

Additional safety sensitive positions may be identified as further criteria are established or new mandates are implemented. Any employee who occupies added safety sensitive positions would be notified in writing of the change.

(EXHIBIT C)

(EMPLOYEE)

CITY OF ST FRANCIS

AFFIRMATION OF
DRUG AND ALCOHOL TESTING POLICY

As an employee in a safety sensitive position, I affirm that I have received, read and understand the City of St. Francis' Drug and Alcohol Testing Policy, I am aware that I may be required to undergo a drug and/or alcohol screen based upon reasonable suspicion; that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the city.

EMPLOYEE NAME (PLEASE PRINT)

EMPLOYEE SIGNATURE

DATE

CITY OF ST FRANCIS REPRESENTATIVE

DATE

(EXHIBIT D)

(APPLICANT)

CITY OF ST FRANCIS
AFFIRMATION OF
DRUG AND ALCOHOL TESTING POLICY

STATEMENT OF POLICY

City of St. Francis is committed to ensure a safe and drug and alcohol free workplace for all city employees and the general public. As a public employer, the city has a compelling interest in establishing reasonable condition of employment. Prohibiting employee drug and alcohol use is one such condition.

City of St. Francis is concerned with the well-being of its employees and the need to maintain employee productivity. The intent of the City of St. Francis' Drug Free Workplace Program is to offer a helping hand to those who need it, while sending a clear message that any illegal drug or alcohol use is contradictory with public services and **WILL NOT BE TOLERATED!**

It is the policy of City of St. Francis that all applicants, for safety sensitive positions, who receive a conditional offer of employment submit to a drug test to document they are drug free. Refusal to comply with this requirement will be considered the equivalent of receiving a confirmed "positive" result for employment and disqualification purposes. Any applicant who receives a confirmed "positive" drug screen result will have the offer of employment withdrawn and will be subject to disqualification from other application for city employment for a period of two years from the effective date of the disqualification action.

AFFIRMATION OF POLICY

As an applicant for a position, I affirm that I have read and understand the City of St. Francis' Drug and Alcohol Testing Policy Statement of Policy noted above, and I am aware that any offer of employment is conditional upon my taking a drug test and the results thereof. If hired into a position for City of St. Francis, I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the city.

APPLICANT NAME (PLEASE PRINT)

APPLICANT SIGNATURE

DATE

CITY OF ST FRANCIS
REPRESENTATIVE

DATE

(EXHIBIT E)

CITY OF ST FRANCIS
RELEASE OF INFORMATION

I hereby authorize _____ to release information related to my participation in the alcohol _____ and/or drug testing _____ program of said organization to _____.

Signature of Applicant

It has been brought to our attention that _____ has participated in the alcohol testing _____ and/or drug testing _____ program. Under the auspices of 49 CFR 382, et.al., Subpart C 382.301 (b) and (c) we are requesting the following information in order to establish our need to require this applicant to take an alcohol and/or drug test prior to employment.

Name and address (es) of the program (s)

DRUG TESTING PROGRAM

ALCOHOL TESTING PROGRAM

The driver did/did not participate in the alcohol testing program.

The driver did/did not participate in the drug testing program.

The alcohol program conforms to the testing requirements of 49CFR Part 40. _____ Yes _____ No.

The drug testing program conforms to the testing requirements of 49CFR Part 40. _____ Yes _____ No.

The driver is qualified under these rules and has not refused to be tested for alcohol or controlled substances. _____ Yes _____ No.

Date the driver was last tested for controlled substances: _____.

Date the driver was last tested for alcohol: _____.

Please attach a copy of the results of any test taken within the previous six months and any violations of the prohibitions related to alcohol and controlled substance usage. (Total number of results attached _____. Total number of violations attached _____.)

Signature of Responsible Party

(EXHIBIT F)

CITY OF ST FRANCIS
Reasonable Suspicion Report Form

Employee 's Name :. _____

Department: _____ Social Security Number _____

Date Behavior Observed: _____ (Month/Day/Year)

Time Observed: From _____ am/pm to _____ am/pm

Location where employee was observed: _____

Behavior Observed: (Check all items which apply)

Speech: Normal _____ Incoherent _____ Confused _____ Slurred _____ Whispering _____

Silent _____ Loud _____ Rapid _____ Cursing _____

Balance: Normal _____ Staggering _____ Swaying _____ Falling _____

Eyes: Normal _____ Reddened (bloodshot) _____ Pupils Dilated _____

Pupils Constricted _____

Walking and Turning: Normal _____ Stumbling _____ Arms raised for Balance _____

Reaching for Support _____ Lack of Coordination _____

Awareness: Normal _____ Confused _____ Sleepy _____ Paranoid _____

Comments of employee (please quote remarks, admissions, etc.) which are pertinent; such as swearing, cursing.

Other observed actions or behavior (i.e., odors, vomiting, coughing, gagging, crying, etc.):

Supervisor

Date

This report must be prepared every time an employee is suspected of drug or alcohol use by actions, appearance, or conduct while on duty. This form must be completed within 24 hours or before test results are released.

**DEFINITIONS FOR
CITY OF ST FRANCIS
DRUG AND ALCOHOL TESTING POLICY**

ACCIDENT - An incident reportable under 49CFR Part 382, and 391.

AIR BLANK - A reading by an EBT of ambient air containing no alcohol. (In EBT's using gas chromatography technology, a reading of the device's internal standard.)

ALCOHOL - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

ALCOHOL CONCENTRATION - Means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

ALCOHOL USE - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

APPLICANT - An individual offered employment in, or being promoted or transferred to a safety sensitive position.

AUTHORIZED SUBSTANCES - Include only lawful over-the-counter drugs (excluding alcohol) in amounts as specifically directed by the manufacturer.

BREATH ALCOHOL TECHNICIAN (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

COLLECTION SITE AGENCY - A facility designated by the Consortium as the collection site for drug screening samples (urine) and breath alcohol testing. For purposes of this policy, the collection site is not the testing laboratory.

CITY OF ST FRANCIS PROPERTY - All areas in which City of St. Francis operates, including actual premises, parking lots, owned or leased equipment, lockers, desks, work areas and buildings, storage facilities, etc.

DRUG - Any chemical substance that, when consumed, tends to produce a physical, mental or emotional change.

DRUG SCREENING - Procedure to eliminate negative urine specimens from further considerations.

DRUG TESTING - An analytical procedure which identifies the presence of a specific drug or metabolite and which uses a different chemical principle from that of the initial test to insure reliability and accuracy. At this time gas chromatography/mass spectrometry (GC/MS) is the accepted standard confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine.

EVIDENTIAL BREATH TESTING DEVICE (EBT) - An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

EMPLOYEE ASSISTANCE PROGRAM (EAP) - A program to help employees, and often their families, recognize and overcome personal problems that are interfering with the employee's work performance. This is an extension of the performance appraisal process and is designed to reach performance problems that cannot be remedied by training, education, or other employer-controlled factors. Among the many personal problems, an Employee Assistance Program may deal with, are alcohol and drug abuse.

EMPLOYEE ASSISTANCE PROGRAM CONTRACTOR - The Mental Health Consortium, Inc. - Topeka, Kansas.

ILLEGAL DRUGS - Urine samples from applicants and employees will be screened in all cases to identify the following classes of substances:

THRESHOLD FOR
POSITIVE VERIFICATION
IMMUNOASSAY SCREEN

Marijuana/Metabolite	50 NG/ML
Cocaine Metabolite	300 NG/ML
Opiates	300 NG/ML
Phencyclidine (PCP)	25NG/ML
Amphetamines/Methamphetamine	1000 NG/ML

When the initial screen is positive (has exceeded the established screening threshold) a second confirmation test gas chromatography/mass spectrometry (GC/MS) will be completed. The thresholds for positive confirmation for GC/MS are as follows:

Marijuana/Metabolite	15 NG/ML
Cocaine Metabolite	150 NG/ML
Opiates	300 NG/ML
Phencyclidine	25 NG/ML
Amphetamine/Methamphetamine	500 NG/ML

IMPAIRED - Under the influence of an illegal or legal drug whereby the employee's senses (i.e. sight, hearing, balance, reaction, reflex) or judgment are affected.

LEGAL/PRESCRIBED (MEDICATION) DRUGS - Drugs an individual may be taking under the direction of a licensed physician to address a specific physical, emotional or mental condition.

MEDICAL REVIEW OFFICER (MRO) - A licensed physician who reviews and interprets positive results of confirmatory tests and evaluates those results together with medical history or any other relevant biomedical information to confirm positive results. This person has knowledge of substance abuse and appropriate medical or forensic training.

(CONFIRMED) NEGATIVE RESULT - No detection of an illegal substance in the pure form of its metabolites at or above the threshold level by a drug screening test.

(CONFIRMED) POSITIVE RESULT - The detection of an illicit substance in the pure form of its metabolites at or above the specified threshold by two consecutive drug screening tests which employ different test methods and which was not determined by the appropriate medical, scientific, professional testing or forensic authority to have been caused by alternate medical explanations or scientifically insufficient data. All positive results are intensively reviewed by a Medical Review Officer (MRO).

REASONABLE SUSPICION - Involves a judgment made regarding the employee's behavior, appearance, speech or body odor, or evidence found or reported and may be based on, among other circumstances, one of the following:

1. Direct observation of specific, contemporaneous, particular behavior exhibited by the employee which may impair the employee's ability to perform his/her job or which may pose a threat to safety or health.
2. Physical on-the-job observation of drug and/or alcohol use by the employee.

3. Documented deterioration in the employee's job performance that is likely to be attributed to drug or alcohol use by the employee.
4. An on-the-job incident or occurrence where there is evidence to indicate the incident or occurrence was in whole or in part the result of the employee's actions or inactions and/or the employee exhibited behavior indicating illegal drug or alcohol use.

SAFETY SENSITIVE - The city council of City of St. Francis has established the following factors in designating specific positions as safety sensitive. The number of safety sensitive positions may be increased as further criteria are established by the city council of City of St. Francis.

1. Drivers of commercial vehicles:
 - a. with a gross vehicle weight rating of 26,001 pounds or more or combination vehicles (weighing at least 26,001 pounds) or
 - b. designated to transport 16 or more passengers including the driver, or
 - c. transporting hazardous materials in amounts requiring placarding.
2. Employees engaged in the operation of power plant generators and equipment.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

TESTING LABORATORY - A laboratory certified by the Department of Health and Human Services (DHHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) to perform drug testing of urine specimens obtained at the collection site.

COMPENSATORY TIME

This is an agreement between the City of St. Francis and police officers, which may in the course of their duties, have to work overtime and would rather have the compensatory time off.

1. The employee is to be awarded compensatory time at the rate of 1.5 hours for each hour of overtime actually worked (not vacation, holiday, sick, etc.);
2. The employee may not accrue compensatory hours in excess of 60 hours;
3. The compensatory time must be used on or before December 15 or the employee will be paid overtime following FLSA regulations;
4. The Police Chief cannot unreasonably deny use of accrued comp time.

Police Officer

Date_____

Police Chief