



CITY COUNCIL WORK AGENDA

Thursday, August 7, 2014

NOTICE IS HEREBY GIVEN that the Herriman City Council shall assemble for a meeting in the Herriman Community Center, located at 13011 South Pioneer Street (6000 West), Herriman, Utah.

**** Please Note****

This meeting is an open meeting for anyone that would like to attend. This work meeting is for observation purposes or to listen as the Mayor and City Council member's work together with staff on city issues. It is not anticipated for the public to discuss these items unless called upon or recognized by the chairperson to speak.

5:00 PM - WORK MEETING: (Front Conference Room)

1. COUNCIL BUSINESS

- A. Planning Updates – Bryn McCarty, Planning Supervisor
- B. Discussion regarding amendments to the Policy and Procedures Manual Section 1-6 – Tami Moody, Interim Assistant City Manager/PIO
- C. Discussion considering an amendment to the City Council annual meeting schedule – Gordon Haight, Interim City Manager
- D. Discussion considering the deer mitigation program – Gordon Haight, Interim City Manager
- E. Discussion regarding an Interlocal Agreement to unify surrounding communities within Jordan School District boundaries – John Brems, City Attorney
- F. Other Updates

2. MAYOR AND COUNCIL COMMENTS

3. ADJOURNMENT

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323, providing at least 48 hours advance notice of the meeting.

Certificate of Posting

I, Jackie Nostrom, the duly appointed, qualified, and acting City Recorder of Herriman City, Utah, do hereby certify that the above and foregoing is a full, true and correct copy of the agenda; it was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body. Also posted on the Utah State Public Notice Website <http://www.utah.gov/pmn/index.html> and on Herriman City's website at www.herriman.org

Posted and Dated this 31st day of July 2014

Jackie Nostrom, CMC
City Recorder

SECTION I: EQUAL EMPLOYMENT OPPORTUNITY (EEO)

1. GENERAL POLICY. It is the policy of Herriman to comply with Equal Employment Opportunity standards in all phases of personnel administration: job structuring, recruitment, examination, selection, appointment, placement, training, career mobility, discipline, etc., without unlawful regard to race, color, religion, sex, [sexual orientation](#), age, physical or mental disability, national origin, or veteran status.
2. SUPERVISOR RESPONSIBILITIES. The City Manager shall ensure that Herriman is in compliance with all of the personnel policies and procedures in this Personnel Policies and Procedures Manual for Herriman ("Manual"), including all EEO standards. Human Resources shall ensure that each employee receives a copy of this Manual [or has access to an electronic copy of this Manual](#), and that the employee signs and dates a Policy Statement and Acknowledgment Form stating receipt of [or access to](#) the Manual. Human Resources will then file the signed and dated Policy Statement and Acknowledgment Form in the employee's personnel file.
3. EMPLOYEE RESPONSIBILITIES. Employees are responsible for informing themselves about the policies, practices, and benefits set forth in this Manual [or updates to this Manual](#) by reading them and, if necessary, asking that they be explained to them. ~~Additionally, all employees are required to sign and date a Policy Statement and Acknowledgment Form stating receipt of this manual.~~

SECTION II: PROTECTION FROM CONTRACTOR CAUSED LOSSES/LIABILITIES

1. GENERAL POLICY. Herriman will take all necessary precautions and steps in written contracts to prevent loss and liability arising from entering relationships with independent contractors. All such independent contractor agreements will be reviewed by the City Attorney.
2. SUPERVISOR RESPONSIBILITIES.

It is the supervisor's responsibility to ensure that no work is performed by any private contractor until:

- (1) A written contract between Herriman and the independent contractor has been entered into and signed by both parties.
- (2) The independent contractor agreement has been reviewed by the City Attorney.
- (3) The signed written contract has been attested by the City Recorder.

SECTION III: EMPLOYEE HIRING

1. EMPLOYMENT. Job Descriptions defining the essential functions of the vacant position shall be prepared before the vacancy is posted or otherwise advertised. All full-time or part-time employment opportunities ~~shall~~ may be posted externally. Temporary employment opportunities are not required to be posted internally or externally.
2. RECRUITMENT. All recruitment shall be conducted in accordance with equal opportunity guidelines.
3. SELECTION.
 - A. Nepotism. To avoid conflicts of interest and the appearance of favoritism or bias, it is the policy of Herriman to strictly comply with Utah Code Ann. § 52-3-1, as amended from time to time. Herriman defines the term “direct supervision” as a supervisor who immediately oversees, directs, and/or evaluates an employee.
 - B. Employment of Minors. It is the policy of Herriman that no one under the age of eighteen (18) shall be hired for any full-time or part-time person. Persons sixteen (16) and seventeen (17) may be hired for temporary employment, provided such employment is in compliance with applicable laws. No one under the age of sixteen (16) shall be hired for any position.
 - C. Rehires. Job applications received from former employees will be processed using the same procedures and standards that govern all other nonemployee applications. Human Resources will review the former employee’s personnel records and the circumstances surrounding termination of previous employment with Herriman.
 - (1) Former employees who have been terminated for cause, or who voluntarily resign while facing disciplinary action, are not eligible for rehire.
 - (2) Applicants who are rehired shall be required to serve a new six (6) month probationary period.
 - D. Job Applications. All interested job applicants shall complete a job application.
 - (1) All applications and resumes received for the job opening will be forwarded to Human Resources. Upon receipt, each application and resume will be marked with the date it was received and placed in an applicant’s file for two (2) years.
 - (2) Job applications shall be signed by the job applicant and the truth of all information contained therein shall be certified by the job applicant’s

Comment [TM1]: We should say ‘may’, as we have recently moved employees into “created” positions without posting the job. Also, it opens the door to being able to promote from within if we choose to do so, as well as move unilaterally without posting, should we choose to do so. The current wording creates the appearance as though any and all full or part time openings will be posted externally and that has simply not always been the case. I would like the option to add: The City may exercise the option of posting a position internally or promoting from within based on merit principles.

Merit principles.
It is the policy of this state that each county may establish a personnel system administered in a manner that will provide for the effective implementation of the following merit principles:
(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
(2) provision of equitable and adequate compensation;
(3) training of employees as needed to assure high-quality performance;
(4) retention of employees on the basis of the adequacy of their performance, and separation of employees whose inadequate performance cannot be corrected;
(5) fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;
(6) provision of information to employees regarding their political rights and prohibited practices under the Hatch Act; and
(7) provision of a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

signature. The job applicant shall provide a copy of required certified educational transcripts either with the application or upon hire.

E. General Aptitude Test Battery (GATB). When necessary, job applicants may be required to take the GATB. If administration of the GATB is deemed necessary, it may be administered by the Department of Workforce Services.

F. Other Tests. Job Applicants may be screened or may be required to take other tests which Herriman deems necessary for a specific position. Job applicants for certain positions may require skills for which a known level of competence must exist such as mathematics or timed typing tests. When Herriman uses other ability tests, Herriman shall make reasonable accommodations for disabled applicants.

G. Job Applicant Disqualification. An application may be rejected for, but not limited to, the following reasons. When the Job Applicant:

- (1) Does not meet minimum qualifications established for the position.
- (2) Is physically or mentally unable to perform the essential duties and responsibilities of the position with, or without, reasonable accommodation(s) (determined only after a conditional offer of employment, pending the results of a medical examination, has been extended to a job applicant).
- (3) Has falsified a material fact or failed to complete the application.
- (4) Has failed to timely file the application.
- (5) Has an unsatisfactory employment history or poor work references.
- (6) Has failed to attain a passing score, if an examination is required.

B. Interviewing.

- (1) Herriman will select applicants to interview from those who have passed the preliminary screening tests and job applications. Job-related duties and qualifications will provide the basis for initial screening of job applicants. During the interview, all job applicants should be advised that any and all of the information provided will be verified.
- (2) Individuals conducting job interviews who are personally acquainted with the job applicant should not participate in the interview. Individuals conducting job interviews shall only ask questions that pertain to the job position. The Pre-Employment Inquiry Guide should be reviewed by the interviewer before the interview begins. In addition, during the interview

each interviewer completes an Interview Guide which is consistent with Herriman's Equal Employment Opportunity policy.

- C. Reference Checks. In order to facilitate references checks, written permission shall be obtained from the applicant using the Applicant's Consent to Release Information Form. Herriman may contact the references for each job applicant and ask job-related questions, which include similar questions for each job applicant checked, using Herriman's Telephone and Written Reference Check Questionnaires.

4. PLACEMENT.

- A. Job Offers. After a job applicant has been selected, Human Resources shall notify the successful job applicant of their conditional selection through a written Job Offer Letter. The written conditional Job Offer Letter shall clearly state the job description, salary conditions, any provisional conditions of employment (*i.e.*, successfully passing drug/alcohol tests, background checks, driving record checks, and physical examinations), full time, part time, temporary, summer employee, and term of probation. Additionally, the written conditional Job Offer Letter shall clearly state that the offer is not accepted until the candidate signs the written conditional Job Offer Letter and returns it to Herriman by the requested date. The original Job Offer Letter is then filed in the employee's file and a copy is given to the new employee during orientation. Written conditional Job Offer Letters should also include the following:

- (1) A clear statement of the job description.
- (2) The employee's starting salary. Starting salary offers for exempt positions shall be figured for a specified period, such as a two (2) week period. Starting wage offers for nonexempt positions shall be figured at an hourly wage.
- (3) The employee's job title.
- (4) The employee's supervisor.
- (5) Any relocation commitments, if applicable.
- (6) Herriman's at-will employment policy.
- (7) The employee's starting date.
- (8) The length of the employee's probationary period.
- (9) Notice that employment is contingent upon passing a background examination, drug tests, medical/physical examinations, etc.

- (10) Full-time, part-time, temporary, summer employee, and term of probation.
- B. Job Rejection Letters. Within five (5) working days after the job offer has been accepted, nonselected job applicants may be notified. Human Resources may send a Job Rejection Letter to each job applicant who was not selected for a job opening.
- C. Medical Examinations. Once Herriman has extended a conditional job offer to the job applicant, a medical interview or examination may be conducted by a health professional chosen by Herriman to determine a job applicant's ability to fulfill essential job-related requirements. Only Human Resources may authorize such interviews or physical examinations. All costs for required medical interviews or physical examinations will be borne by Herriman. The prospective employee must sign a written release of this information to Herriman.
- D. Reinstatements. Employees who are reinstated into Herriman may maintain their original anniversary date for seniority purposes as well as for those benefit programs governed by the anniversary date. The policy will be as follows:
- (1) Layoffs. Employees who terminate because of reduction in work force will maintain their original anniversary date for seniority purposes if they are reemployed by Herriman within one (1) year after date of termination.
 - (2) Voluntary resignations. Employees who voluntarily terminate their employment with Herriman may maintain their original anniversary date, subject to City Manager approval, if they are reemployed by Herriman within six months after date of termination.
- E. Hiring New Employees.
- (1) Required for All Employees: Human Resources is responsible for having new employees fill out all preemployment forms, benefit applications, enrollment forms and providing basic information on Herriman's policies concerning pay, vacation, holidays, and PTO, benefits, parking, and work hours during the employee's first day of work.
 - (2) Additional Requirement: If applicable, Human Resources is responsible for obtaining an Employment Agreement.
- F. Orientation. Newly hired Herriman employees shall complete all required paperwork and receive an orientation on their first (1st) day of work, or as soon as practicable thereafter.
- (1) In accordance with the Immigration Reform and Control Act of 1986, all new employees shall provide proof of identity and employment status by completing an Employment Eligibility Verification Form (I-9). The

employee must sign under penalty of perjury that they are a U.S. citizen, a lawful permanent resident alien, or an alien otherwise authorized for U.S. employment.

- (2) All new employees shall complete and sign a Form W-4 Federal Withholding Statement.
- (3) All new employees should be given a tour of the work place. The employee should complete and submit to Human Resources a New Employee Orientation Form.

G. Probationary Period.

- (1) All new employees shall be subject to a six (6) month probationary period. During this period, probationary employees may be terminated with or without notice for any or no reason without any right to due process, notice, explanation, or appeal in connection with said termination.
- (2) Probationary periods begin on the first day of employment and continue for six (6) months. Management will provide guidance to probationary employees so they understand work requirements.
- (3) An employee on probation shall have a performance evaluation at the end of the probationary period. This performance evaluation may be used to provide information to both the employee and management regarding the employee's performance. A performance evaluation and the results of such evaluation shall not obligate management to a particular course of action relative to the probationary employee nor shall it create any property/due process rights for the probationary employee relative to their job/position.

5. VOLUNTEERS.

- A. The City has established volunteer programs.
- B. Prior to accepting any volunteer services, the volunteer shall sign a Volunteer Application defining the nature and terms of the volunteer services and be placed on the volunteer list that is maintained by Human Resources.
- C. A volunteer shall be provided the protections as an employee of Herriman for:
 - (1) Workers compensation benefits for compensable injuries sustained by the volunteer while acting in the scope of employment.
 - (2) Volunteers shall not operate Herriman owned vehicles or equipment, unless authorized in writing by the manager of fleet.

- (3) Liability insurance coverage provided for employees.
- D. Volunteer service experience will be recognized for determining minimum qualifications for an employment position with Herriman.
 - E. City employees shall not volunteer with respect to official, City-sponsored events or functions, such as Fort Herriman Days.
 - F. A City employee may volunteer to perform other types of services for the City or the City's benefit if such services are not the same type of service which the employee is employed to perform for the City. For purposes of this subsection, the phrase "same type of service" means similar or identical services determined by the City Manager. The decision of the City Manager may not be appealed.

SECTION IV: ALCOHOL AND DRUG-FREE WORKPLACE

1. GENERAL POLICY. The purpose of this policy is to implement the Federal Drug Free Workplace Act of 1988 by providing for a safe and productive work environment that is free from impaired performance caused by employee use or abuse of alcohol, controlled substances, and/or medication.
2. EMPLOYEE RESPONSIBILITIES.
 - A. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, medication, or alcohol.
 - B. Any employee convicted under a federal or state statute regulating controlled substances shall notify the employee's supervisor and Human Resources within five days after the conviction.
 - C. No employee shall consume alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
 - D. No employee shall be impaired by alcohol, illegal drugs, or medication during work hours or while on call.
 - E. No employee shall represent Herriman in an official capacity while impaired by alcohol, illegal drugs, or medication.
 - F. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety-sensitive functions while on duty for Herriman.
 - G. If an employee is using prescription or nonprescription medication that may impair performance of duties, the employee shall report that fact to the employee's supervisor.
 - H. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs, and/or medication shall immediately notify a supervisor.
3. REASONABLE SUSPICION TESTING.
 - (1) When a designated and trained supervisor makes a determination that there is reasonable suspicion to believe that an employee is using, is under the influence of, or is in possession of alcohol or controlled substances, the employee shall be subject to drug/alcohol testing.

- (a) The supervisor making the determination that reasonable suspicion exists shall submit written documentation setting forth the specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the ~~driver~~employee which resulted in the reasonable suspicion determination. Reasonable suspicion of use of a controlled substance may also be based on observation of indications of the chronic and withdrawal effects of controlled substances.
 - [1] The required observations underlying reasonable suspicion testing must be made by a supervisor or Herriman official who has received at least two (2) hours of annual training on the physical, behavioral, speech, and performance indicators of alcohol and drug use.
 - [2] Observations underlying the reasonable suspicion testing must be documented in writing and signed by the supervisor or Herriman designated official within twenty-four (24) hours or before the results of the test are announced, whichever is later.
- (b) Reasonable suspicion testing may not be conducted by the same supervisor who makes the reasonable suspicion determination.
- (2) Special requirements associated with reasonable suspicion alcohol testing.
 - (a) Alcohol testing is authorized only if the observations set forth above are made during, just preceding, or just after the performance of employee's duties.
 - (b) If an alcohol test is not administered within two (2) hours following the identification of reasonable suspicion, the supervisor shall prepare and maintain documentation stating why the test was not administered within two (2) hours.
 - (c) If an alcohol test is not administered within eight (8) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain documentation stating why the test was not administered within eight (8) hours.
- (3) Special requirements associated with reasonable suspicion drug testing. If a drug test is not administered within thirty-two (32) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer a controlled substance test, and shall prepare and maintain documentation stating why the test was not administered within thirty-two (32) hours.
- (4) Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any employment-related duties which the employee's

supervisor deems dangerous to themselves or others until the results of the tests are received and the employee is released back to work by Human Resources. Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or medication, appropriate employee disciplinary action will be taken.

4. **DISCIPLINARY ACTION.** Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or medication, appropriate employee disciplinary action will be taken.
5. **SCOPE.** This policy covers all employees of and applicants for employment.

SECTION V: "SAFETY-SENSITIVE POSITION" DRUG TESTING (CDL DRIVERS)

1. GENERAL STATEMENT.

- A. It is the policy of Herriman that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance and/or the distribution, dispensation, possession, or use of alcohol in the workplace is expressly prohibited.
- (1) In order to achieve a drug-free work place, employees in, and applicants for, safety-sensitive positions shall be required to participate in all of the following alcohol and controlled substances testing:
- (a) When an applicant has been extended a conditional offer of employment but before beginning work.
 - (b) When there is a reasonable suspicion to believe that the employee is in an impaired state.
 - (c) When the employee has been involved in an "on-duty accident" or unsafe work practice.
 - (d) On a random basis.
- (2) Applicants for all other positions shall, as a condition of employment, be required to participate in alcohol and controlled substances testing after the applicant has been extended a conditional offer of employment but before beginning work.
- B. Scope. This policy covers all employees of and applicants to Herriman.
- C. Definitions.
- (1) Alcohol. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol no matter how packaged or in what form the alcohol is stored, utilized or found.
- (2) Controlled Substances. Controlled substances are defined as marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines (including methamphetamine) or other substances which may only be legally obtained and used pursuant to a physician's prescription.

- (3) On-duty Accident. Any accident involving damage to equipment or facilities that is estimated by a supervisor to be more than \$1,000, medical attention, loss of life, or the issuance of a moving traffic citation to the employee.
- (4) Positive Test. Any test result showing a blood alcohol content (BAC) of 0.04 or greater or the presence of any controlled substance in the test subject.
- (5) Refusal to Submit to Testing. Failure to provide an adequate breath or urine sample without a valid and verified medical explanation, after the employee has received notice that they are being tested and a breath of urine sample is required, or engages in conduct that clearly obstructs the testing process.
- (6) Reasonable Suspicion. Knowledge sufficient to induce an ordinarily prudent and cautious man under the circumstances to believe that a prohibited activity is occurring.
- (7) Safety-sensitive Duties. Any duties requiring a Commercial Drivers License (CDL), and any other duties or positions deemed safety sensitive. Positions deemed safety sensitive by Herriman include employees performing duties in the water department, streets department, and street light department.

2. POLICY.

A. Testing Notice.

- (1) Before performing any alcohol or drug test authorized by this policy Herriman, through its designated representative shall notify the employee being tested, verbally or in writing, whether the test being administered is required by the Omnibus Transportation Employees Testing Act of 1991, or whether it is required by this policy.
- (2) Herriman employees who, under Herriman requirements, hold CDLs are required under rules established by the Federal Highway Administration to be subjected to preemployment, reasonable suspicion, random, postaccident, return-to-duty, and follow-up drug and alcohol testing.
 - (a) When conducting any of the above noted tests on CDL employees, Herriman shall provide the employee with the following notice:
 - [1] The drug and/or alcohol test you are being required to take is required under rules established by the Federal Highway

Administration pursuant to the Omnibus Transportation Employees Testing Act of 1991.

- [2] If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination.
- (3) Herriman employees who are not required by Herriman to hold a CDL, but who are employed in safety-sensitive positions, while not subject to testing under federal statute, are subject to preemployment, reasonable suspicion, random, annual, postaccident, return-to-duty, and follow-up drug and alcohol testing under this policy.
 - (a) When conducting any of the above noted tests on Non-CDL safety-sensitive employees, Herriman shall provide the employee with the following notice:
 - [1] The drug and/or alcohol test you are being required to take is required by the policies and procedures of Herriman.
 - [2] If you refuse to submit to the required testing you may be subject to disciplinary action.
- B. Preemployment Testing. Herriman requires a final applicant selected for a position with Herriman to undergo an alcohol and drug screen test to detect the presence of alcohol and illegal drugs or controlled substances in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for controlled substances or whose test detects a BAC of .04 or higher will be denied employment with Herriman.
 - (1) Drug and alcohol testing shall be conducted after the selected applicant has been extended a conditional offer of employment but before beginning work.
 - (2) All of Herriman's job announcements and conditional offers of employment shall contain the following notice:
 - (a) ~~all~~ All applicants selected for employment with Herriman shall be required to take a drug and alcohol test with negative results as a precondition of employment.
 - (b) A positive test result or failure to submit to the required testing shall result in a withdrawal of any conditional offer of employment with Herriman.

- (3) If the final applicant tests positive for drugs or alcohol as set forth above, or refuses to submit to testing as defined by this policy, the conditional offer of employment shall be withdrawn in writing and the applicant shall not be employed by Herriman.

C. Prohibited Conduct.

- (1) Employees shall not use, be under the influence of (.04 BAC), or be in possession of alcohol while on duty, on Herriman premises or while in Herriman vehicles. Herriman premises includes buildings, parking lots, grounds and vehicles owned by Herriman or personal vehicles being used for Herriman business.
- (2) Employees shall not use, be under the influence of, be in possession of, or be in such a condition as to test positive for alcohol or controlled substances while on duty, on Herriman premises or while in Herriman vehicles. Herriman premises includes buildings, parking lots, grounds and vehicles owned by Herriman or personal vehicles being used for Herriman business.
- (3) Employees using, possessing, distributing, dispersing, or being at the workplace under the influence of alcohol or illegal or illegally obtained/used controlled substances shall be subject to questioning and disciplinary action.
- (4) Any employee violating this policy may be subject to immediate termination.

D. Reasonable Suspicion Testing.

- (1) When a designated and trained supervisor makes a determination that there is reasonable suspicion to believe that an employee performing or assigned to safety-sensitive positions is using, is under the influence of, or is in possession of alcohol or controlled substances, the employee shall be subject to drug/alcohol testing.
 - (a) The supervisor making the determination that reasonable suspicion exists shall submit written documentation setting forth the specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the driver which resulted in the reasonable suspicion determination. Reasonable suspicion of use of a controlled substance may also be based on observation of indications of the chronic and withdrawal effects of controlled substances.

- [1] The required observations underlying reasonable suspicion testing must be made by a supervisor or Herriman official who has received at least two (2) hours of annual training on the physical, behavioral, speech, and performance indicators of alcohol and drug use.
 - [2] Observations underlying the reasonable suspicion testing must be documented in writing and signed by the supervisor or Herriman designated official within twenty four (24) hours or before the results of the test are announced, whichever is later.
- (b) Reasonable suspicion testing may not be conducted by the same supervisor who makes the reasonable suspicion determination.
- (2) Special requirements associated with reasonable suspicion alcohol testing.
 - (a) Alcohol testing is authorized only if the observations set forth above are made during, just proceeding, or just after the performance of safety-sensitive functions.
 - (b) If an alcohol test is not administered within two (2) hours following the identification of reasonable suspicion, the supervisor shall prepare and maintain documentation stating why the test was not administered within two (2) hours.
 - (c) If an alcohol test is not administered within eight (8) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain documentation stating why the test was not administered within eight (8) hours.
 - (3) Special requirements associated with reasonable suspicion drug testing. If a drug test is not administered within thirty two (32) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer a controlled substance test, and shall prepare and maintain documentation stating why the test was not administered within thirty two (32) hours.
 - (4) Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any Herriman equipment or engage in any employment related duties which the employee's supervisor deems dangerous to themselves or others until the results of the tests are received and the employee is released back to work by Human Resources.

E. Random Testing.

- (1) Employees assigned to, or performing, safety-sensitive duties are subject to random drug/alcohol tests.
- (2) Random tests shall be both of the following:
 - (a) Unannounced.
 - (b) Reasonably spread throughout the year.
- (3) Each employee within a testing pool must have an equal chance of being tested each time a random test is conducted.
- (4) Random Testing for CDL Drivers.
 - (a) CDL drivers may be subjected to random alcohol testing only while performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
 - (b) Drug tests may be performed at any time the driver is on duty.
- (5) Random Testing for Non-CDL Safety-sensitive Employees. Non-CDL safety-sensitive employees may be subjected to random alcohol and drug tests any time the employee is on duty.
- (6) Pool Testing - Consortiums.
 - (a) Herriman may join a consortium with testing pools large enough so that Herriman's CDL drivers or employees in Safety-sensitive positions are always subject to random testing and the required annual testing rate shall be met by tests conducted of all drivers within the pool.
 - (b) If and when Herriman chooses to join a drug/alcohol testing consortium, Human Resources shall designate a liaison to coordinate with the testing consortium and obtain and maintain all of the following records and information:
 - [1] How the random selection pool was assembled.
 - [2] The method of selection and notification of drivers.
 - [3] The location of collection sites.
 - [4] Methods of reporting the test results on each driver.

- [5] Summary reports on the consortiums program showing that the consortium tested at the prescribed minimum annual rates for alcohol and/or controlled substances.

F. Postaccident Testing.

- (1) Any surviving CDL driver, surviving employee in a safety-sensitive position, or any other employee involved in an accident resulting in damage to equipment or facilities that is estimated by a supervisor to be more than \$1,000, medical attention, loss of life, or issuance of a moving traffic citation to the employee, shall be tested as soon as practical for alcohol and controlled drugs.
 - (a) An employee who is subject to postaccident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.
 - (b) The results of tests conducted by Federal, State, or Local law enforcement officers having independent authority to conduct tests to detect alcohol or controlled substances may be used by the employer to meet postaccident testing requirements.
 - (c) Time frames for testing and consequences of failure to test:
 - [1] Alcohol.
 - [a] If the test is not administered within two (2) hours following the accident, the supervisor shall prepare and submit documentation stating why the test was not administered within two (2) hours.
 - [b] If the test is not administered within eight (8) hours following the accident, the supervisor shall cease attempts to administer an alcohol test and shall prepare and submit documentation stating why the test was not administered within eight (8) hours.
 - [2] Controlled Substances. If the test is not administered within thirty-two (32) hours following the accident, the supervisor shall cease attempts to administer a controlled substance test, and shall prepare and submit documentation stating why the test was not administered within thirty-two (32) hours.
- (2) Upon required testing due to an accident or reasonable cause, the employee tested shall not engage in the operation of any Herriman

equipment or engage in any employment related duties, which the employee's supervisor deems dangerous to himself or others until the results of the tests are received and the employee is released back to work by Human Resources.

G. Consequences of Positive Drug/Alcohol Test.

- (1) Alcohol. If any alcohol test result shows a blood alcohol content of 0.04 or greater, Herriman shall take personnel action against such employee, consistent with the requirements of the Rehabilitation Act of 1973, as amended.
- (2) Drug/Controlled Substances. If a drug test result shows that the employee has misused a controlled substance, Herriman shall take personnel action against such employee, consistent with the requirements of the Rehabilitation Act of 1973, as amended.

H. General.

- (1) Herriman maintains the right to conduct unannounced inspections of Herriman owned property, work stations, equipment, desks, cabinets, etc.
- (2) Herriman maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests, and the use of electronic detection equipment and trained animals.
- (3) Failure to cooperate with these detection methods or inspections is grounds for disciplinary action.
- (4) Employees may direct any questions regarding this policy to Human Resources.

SECTION VI: SEXUAL/GENDER HARASSMENT

1. GENERAL POLICY. It is the policy of Herriman that:
 - A. The giving or withholding of tangible job benefits based on the granting of sexual favors (Quid Pro Quo) and any behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing or derisive and results in a hostile abusive or unwelcome work environment constitutes sexual harassment.
 - B. Unlawful discrimination/harassment of employees of any type, on or off duty, based on sex/gender, subtle or otherwise, shall not be tolerated and violators will be subject to disciplinary action.
 - C. Retaliation or reprisals are prohibited against any employee who opposes a forbidden practice, has filed a charge, testified, assisted or participated in any manner in an investigative proceeding or hearing under this policy.
 - D. False or bad faith claims regarding sexual or gender harassment shall result in disciplinary action against the accuser.
 - E. Employees accused of sexual harassment and facing disciplinary action shall be entitled to receive notice of charges, the evidence to be used against them, and an opportunity to respond before any disciplinary action may be taken.
 - F. Records and proceedings of sexual harassment claims, investigations, or resolutions are confidential and shall be maintained separate and apart from the employee's personnel file.
 - G. All employees, supervisors, and management personnel shall receive annual training on the sexual/gender harassment policy and grievance procedures during orientation and in-service training.
2. PROHIBITED CONDUCT.
 - A. Any deliberate, unwanted, or unwelcome behavior of a sex/gender based nature, whether verbal, nonverbal, or physical is prohibited.
 - B. Two major categories of sexual/gender harassment are:
 - (1) Quid Pro Quo, or the granting or conditioning of tangible job benefits or the granting of sexual favors.
 - (2) Creating a hostile or unwelcome work environment, which can occur through any or all of the following general means.

- (a) Level One: Sex role stereotyping.
 - [1] Assignments made or denied solely on the traditional historic perceptions regarding the types of jobs that specific gender may/should perform.
 - [2] Comments or written material reinforcing traditional historic perceptions regarding gender.
- (b) Level Two: Gender harassment/discrimination.
 - [1] Intentional or unintentional behavior/conduct of a visual or verbal nature directed at a specific gender which is demeaning, ridiculing, or derisive.
 - [2] Creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.
- (c) Level Three: Targeted or individual harassment.
 - [1] Intentional behavior predicated on gender or expressing sexuality which is directed at a specific group or individual.
 - [2] Offensive conduct may be verbal, visual, or physical, including unwanted touching of a noncriminal nature.
- (d) Level Four: Criminal touching.
 - [1] The intentional, unwanted touching of the breasts, buttocks, or genitals of another.
 - [2] Forcible sexual abuse.

3. TYPES OF CORRECTIVE ACTION. Any employee who is being sexually harassed or who has personal knowledge of clearly offensive conduct may address the issue either through the formal or informal processes described below:

A. Informal Action.

- (1) Employees who are experiencing an unwelcome or hostile work environment at Level One, Level Two, or Level Three as described above may, if they so desire, choose to address that unwelcome behavior/conduct informally by notifying the individual responsible for the behavior of the behavior that is objectionable, that the conduct/behavior is unwelcome, and that future similar behavior will result in a formal complaint. Employees experiencing sexual harassment at this level are not required to use the informal process and may file a formal complaint if they so desire.

- (2) This notification may be:
 - (a) Verbally, in person.
 - (b) In writing, signed or unsigned.
 - (c) Through a supervisor, verbally, or in writing. The victim may:
 - [1] Ask the employee's supervisor for assistance in determining what to say and how to approach the offending employee.
 - [2] Request the employee's supervisor to accompany the victim when the victim gives the offending employee notice.
 - [3] Ask the employee's supervisor to give notice to the offending employee, accompanied by the victim.
 - [4] Ask the employee's supervisor alone to provide notice to the offending employee.

B. Formal Action.

- (1) Employees who are experiencing an unwelcome or hostile work environment which is clearly offensive or at Level Four as described above, or who have been subjected to quid pro quo type sexual harassment, should address that unwelcome behavior/conduct through the formal remedial process.
- (2) Formal complaints should be in writing and specify:
 - (a) The identity of the victim.
 - (b) The identity of the offending employee.
 - (c) The offensive behavior that the employee engaged in.
 - (d) The frequency of the offensive behavior.
 - (e) Damage the victim suffered as a result of the offensive behavior.
 - (f) How the victim would like the matter settled, or what the victim would like to see happen.
- (3) The victim will be allowed a reasonable amount of time during work to prepare a formal complaint.

- (4) The victim should submit formal written complaints to their immediate supervisor. If the immediate supervisor is the employee engaging in the offensive behavior, the formal complaint should be submitted to the next highest supervisor, City Manager, or the Mayor.
4. DISCIPLINARY ACTION. Employees found guilty of sexual harassment may face disciplinary action based on all the circumstances of the case, as well as the offending employee's work history.
5. MAINTAINING COMPLAINT FILES.
 - A. Information related to any sexual harassment complaint, proceeding, or resolution shall be maintained in a separate and confidential sexual harassment complaint file. This information shall not be placed or maintained in an employee's personnel file.
 - B. Information contained in the sexual harassment complaint files shall be released only to other agencies or individuals who have a legal and legitimate reason to the files pursuant to a court order, GRAMA, or upon the advice of the City Attorney and upon written notice to the victim.
 - C. Participants in any sexual/gender harassment proceeding/investigation shall treat all information related to that proceeding/investigation as confidential.
6. VICTIM PROTECTION.
 - A. Individual complaints, either verbal or written, are confidential.
 - B. Victims of alleged sexual harassment shall not be required to confront the accused outside of a formal proceeding.
 - C. The accused shall not contact the victim regarding the alleged harassment.
 - D. Retaliation or reprisals are prohibited against any employee who opposed a practice forbidden under this policy, or who has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.
 - (1) Any employee engaging in prohibited retaliatory activities shall be subject to disciplinary action up to, and including, termination.
 - (2) Retaliation is an additional and separate disciplinary offense.
 - (3) Retaliation may consist of, but is not limited to, any of the following:
 - (a) Open hostility.
 - (b) Exclusion or ostracism.

- (c) Special or more closely monitored attention to work performance.
- (d) Assignment to demeaning duties not otherwise performed during the regular course of the employee's duties.