



**PLAINVIEW CITY COUNCIL
SPECIAL MEETING
AGENDA**
Tuesday, February 27, 2018, at 6:00 P.M.
(Times are approximate.)

1. CALL TO ORDER

2. DISCUSSION

- 6:00 A. Wages / Pay Scales
- 6:20 B. Personnel Policies
- 6:40 C. Contractor Deposit / Contractor Water Rate

3. STAFF UPDATES

- 7:00 A. Library Repairs
- 7:10 B. Comprehensive Plan
- 7:15 C. TAP Grant / MnDOT Landscape Grant / Lighting Choice Process
- 7:25 D. School Drainage Issue
- 7:35 E. Zoning Code Amendment
- 7:40 F. Franchise Agreements (Midco / HBC?)
- 7:45 G. Meyers TIF Contract
- 7:50 H. Council Work Session Schedule / Goal Setting
- 7:55 I. Lawsuit
- 8:00 J. Other Updates as Needed

4. COUNCIL UPDATES

5. ADJOURN



Executive Summary

City Council Work Session: February 27, 2018

AGENDA ITEM: Pay Scale Implementation	AGENDA SECTION: Discussion
PREPARED BY: Clarissa Hadler, City Administrator	AGENDA NO. 2.a.
ATTACHMENTS: 2017/2018 Wage Comparisons	APPROVED BY: cgh
RECOMMENDED ACTION: Discussion.	

BACKGROUND

The City of Plainview had adopted the new Pay Scale in November of 2017. Apparently at the time, there was not a formal adoption a policy for placement of employees on the new pay scale. Before his departure, John Chattin, Interim City Administrator, had recommended the following adoption of implementation of the new pay scale at the next Council meeting; place an employee on the new scale at the next highest wage reflected on the scale, unless that placement would result in less than a 2.75% increase. If it would be less than 2.75%, they would be placed at the next highest step. These wages had already been implemented as of January 1, 2018.

From November 14, 2017:

Flaherty & Hood's Classification and Compensation study included a pay scale for 2016 and 2017. The 2017 pay scale included a 2.75% increase over the 2016 scale. When looking at our LELS union agreement and negotiating with both the 49ers and AFSCME, it became apparent that the 2017 pay scale was not adequate. That pay scale had over 80% of our employees currently making more than the highest step on that scale. Comparables used were discussed with Brandon Fitzsimons and the Personnel Committee and we determined that current comparables are higher and that some adjustment needed to be made. We agreed to increase the 2016 scale by 6.5% instead of the planned 2.75%. The new scale reduced those "overpaid" to 30% and created a shorter timeframe for the pay scale to catch up to those whose pay would be frozen. It also better reflected comparables found on the League of Minnesota Cities salary survey. The proposed 2018 pay scale includes a 2.75% increase over the 2017 pay scale which is in line with increases reflected in statewide data.

Mr. Chattin's recommendation is precisely what was given by Flaherty & Hood as part of their compensation study. The Recommendations for Implementation from the Flaherty & Hood Compensation Study included the following; "Place incumbent employees on the step... that is closest to, but not less than the employee's wage as of..." Also, "Employees starting in a position

may be placed on any step at the discretion of the employer.” I have confirmed with a colleague in another city that their compensation study was implemented in a similar fashion.

After discussion with department heads and staff, I have concerns about this recommendation (and industry standard, it seems) for implementation. The library, in particular, saw a couple of long-term employees who were moved from higher steps on the original pay scale to the lowest step (debatably the “training” step) on the new pay scale. Previous pay scales had often depicted the Steps along with a timeframe for implementation; Step 1 as Starting, Step 2 at 6 months, Step 3 at 1 year, Step 4 at 2 years, etc. It is understandable that an employee who has worked for the city for many years would be offended to be placed at the point she perceives as an introductory wage.

Implementation of a new pay scale is always a difficult task. Employees may feel discounted if someone they believe underperforms is placed higher on the pay scale than they are. The value of jobs is based upon requirements and not performance. Placement on the new scale can also cause problems. Placement on the scale must be fair, reasonable, affordable, and meet industry standards, according to Brandon Fitzsimmons, the City’s Personnel Attorney. We must ensure that the new scale is applied equally. Violate this premise and the door is left open for everyone to challenge their position on the scale.

However, one could argue that if we completely dismiss the perceptions of our employees and fail to recognize the implications of our choices, we will end up costing the city more than if we simply sought a more creative solution. That being said, I submit to you the following possibility for the implementation of the new pay scale;

When implementing a new pay scale, employees shall be placed on the scale at the step that is closest to, but not less than the employee’s current wage. However, at no point will an employee who has been employed for more than two years (FTE = 4160 hours) be placed lower than Step 2 and at no point will an employee be placed on a step that is more than 2 steps below their current step.

The implementation of the above would change the pay rates for just four employees at a total cost of approximately \$4270 over what Mr. Chattin and Flaherty & Hood had suggested.

RECOMMENDATION

Staff recommends discussion of above and direction for staff to move forward. Staff expects to submit final approval of implementation of the pay plan at the March 13 meeting with retroactive implementation to January 1, 2018.



Executive Summary

City Council Work Session: February 27, 2018

AGENDA ITEM: Personnel Policies	AGENDA SECTION: Discussion
PREPARED BY: Clarissa Hadler, City Administrator	AGENDA NO. 2.b.
ATTACHMENTS: Draft Personnel Policies	APPROVED BY: cgh
RECOMMENDED ACTION: Discussion.	

SUMMARY

The Plainview City Council, staff, and attorneys have been working for some time on new personnel policies. Personnel Policies are important for any organization, as they provide guidance for management and promote, and even require, equitable treatment of employees. In turn, they also provide the city and management with protections should an employee attempt to abuse their role as a city employee.

The attached Personnel Policies were created, in large part, by attorneys and staff of Flaherty & Hood. Councilmember O'Connor and I have provided input and proposed revisions, as shown in colored underlined/stricken language. The Department Heads have also worked with Interim Administrator Chattin and myself and provided feedback and recommendations.

As mentioned in earlier reports, I would recommend discussion of key points and then adopting the policies as a whole as soon as possible, then allowing certain additions to be addressed in upcoming work sessions.

Some of the questions or issues that have come to light are the following;

Section 10.1.1 Accrual Rates for PTO	The amount of PTO granted to employees decreased significantly, with existing employees being grandfathered in. Similarly, the amount employees may accumulate changed from unlimited to twice the employee's annual accrual rate. This in turn creates a maximum to be paid at separation of that maximum accumulation, down from 500 hours in the previous policy. Staff recommends Council discussion as a whole, as this may have potentially large impacts on employee morale moving forward.
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Section 18 Drug Free Workplace	Attorney Fitzsimmons had suggested the current language and the implementation of two Drug & Alcohol Testing Policies, one for CDL and one for Non-CDL.
Section 16.7 Travel & Meal Allowance	“If employees are required to travel outside of the area in performance of their duties as a City employee...” What is the definition of “the area”?
Section 10.1.4 (proposed) PTO Gifting	The existing policy includes an option to gift PTO. “Employees may choose to grant a portion of their PTO to another employee to assist with medical treatment and/or recovery. Such donation must be approved by the City Council.” I don’t believe it should be necessary to have Council approve. First, that would have to be done confidentially so as not to disclose an employee’s medical issue. We could add language about how much could be gifted at one time, required amount of PTO the gifting employee must retain, etc.
Section 4.9 (proposed) Area Residency Requirement	Which employees should be required to live near the city? Attorney Fitzsimmons states that in order to have this requirement, the policy must articulate how the requirement is related to the performance of the job. Is Council interested in pursuing this? If so, staff will obtain recommended language.
Section 10.1.3 (proposed) Use of PTO by Exempt Employee	Council member O’Connor requests the addition of language from the LMC model policy stating that exempt employees shall use PTO for any absence of 4 hours or more, but does not need to use PTO for less than 4 hours. If implementing this portion, we should assess whether to remove paragraph 2 of 7.3 Time Reporting, that requires exempt employees to account for their hours.
Section 3.2 Attendance & Absence	Council member O’Connor suggests adding wording from an earlier draft of the Absence Policy regarding tardiness.
Section 4.1 Hiring	Is there a way to create an exception for temporary and seasonal employees, to gain efficiencies in those processes?
Section 3.5.1 Gifts Prohibited	Councilmember O’Connor has suggested that all items should be tracked and or turned over to the city.
Section 3.5.1 Gifts Prohibited	Staff requests clarification regarding the ability of supervisors to give employees gifts or free lunch.
Section 6.2 Breaks	“Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or lunch time by saving these breaks.” Could we allow the supervisor to approve occasional changes? For instance, it would be nice if an employee could use a 1 hr. lunch to go to an appointment, but that would not be allowed in this policy.

Section 8.3 (proposed) Tuition Reimbursement	This item was in an earlier draft of the policies. Is this something the City would like to offer? It would need to be worked into future budgets.
Section 10.3 Bereavement Leave	Consider expanding the definition of “in-law” as follows; “In-laws may include the parents or siblings of a domestic partner of an employee. The City may require proof of relationship and/or attendance at the funeral.”
Section 10.8 Pregnancy & Parenting Leave	“Employees are required to use accrued PTO during Parenting Leave.” Is there a reason for this? A new parent often ends up taking a lot of time off for sickness of their kids. Could we allow them to retain up to 20 hours?
Section 10.14.3 FMLA Definitions	Common Law spouses. https://www.dol.gov/whd/FOH/FOH_Ch39.pdf .. states FMLA does recognize common law marriages, and Minnesota might recognize common law marriages legally created outside of this state. (source: http://jlslaw.net/blog/2016/02/23/is-there-common-law-marriage-in-minnesota/)
Section 10.14.3 FMLA Definitions	Under FMLA, “parent” does not include in-laws. I believe we should consider the possibility of adding in-laws to our own definition of parent. Often, the person who attends to a family’s parents is determined by the spouse who has the most flexibility or available paid time off. Or take this example; Jill is married to Bill for 40 years. Bill is an only child. Bill dies. Who will care for Bill’s parents? Can we add language that states that the City may allow all FMLA leave benefits (job protection, etc.) under certain circumstances to those needing to care for in-laws? Must be approved by Council.
Section 13 Separation from Service	“Exempt employees must give thirty (30) calendar days’ notice.” Is this common? Or is it just because all of our exempt employees are Department Heads?

RECOMMENDATION

Staff recommends discussion of items as time allows. Specifically, Council members should come to a consensus on the first two items, so that the policy can be adopted at the March 13, 2018, meeting.

**CITY OF PLAINVIEW
PERSONNEL POLICIES**

Dates Of Adoption And Amendments

<u>Date</u>	<u>Nature</u>	<u>Section(s)</u>	<u>Approved by</u>

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SECTION 1. INTRODUCTION

1.1 Purpose

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Plainview. These policies supersede all previous policies.

1.2 Disclaimer

Nothing in this handbook or any other written or unwritten policies, course of conduct, or practices of the city creates, or is intended to create, an express or implied contract, covenant, promise or representation between the city and our employees.

The city may change or eliminate policies, or portions thereof, contained in this handbook at its discretion at any time, and without notice.

This handbook does not vest in any employee a right, benefit, or privilege which cannot be changed or eliminated by the city council, in its exclusive discretion, at any time without notice to employees.

Employment with the city is at-will, except as otherwise provided by law or contract. This means that employment may be terminated with or without cause at any time at the option of either the employee or the city. No supervisor or other representative of the city has authority to enter into any agreement to the contrary unless approved by the city council.

1.3 Scope

These policies apply to all employees of the City. Except where specifically noted, these policies do not apply to:

- Elected officials
- City attorney
- Members of City boards, commissions, and committees
- Consultants and contractors
- Volunteers, except as specifically noted for paid-per-call firefighters.

If any specific provisions of the personnel policies conflict with any current union agreement or civil service rules, the union agreement or civil service rules will prevail. Union employees are encouraged to consult their collective bargaining agreement first for information about their

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employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

These policies serve as a guide to help employees become better informed and to make their experience with the City more rewarding. Departments may have special work rules deemed necessary by the supervisor and approved by the City Administrator for the achievement of objectives of that department. Each employee will be given a copy of such work rules by the department upon hiring and such rules will be further explained and enforcement discussed with the employee by the immediate supervisor.

1.4 Management Rights

The Employer retains full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs, to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct, and determine the number of personnel; to establish work schedules, shifts, and hours; to contract for goods or services; to make and enforce reasonable rules and regulations; to take any and all actions necessary to carry out the operations of the Employer in situations involving a disaster or emergency; to hire, promote, assign, and transfer Employees; to demote, suspend, discipline and discharge Employees; to lay off Employees; to assign duties, tasks, jobs, hours, shifts, and overtime to Employees; and to perform any other managerial right.

Any term and condition of employment shall remain solely within the discretion of the Employer to modify, establish or eliminate.

The foregoing enumeration of the Employer's authority shall not be deemed to exclude other inherent management rights and functions.

The Employer's failure to exercise any right, prerogative, or function hereby reserved to it, or the Employer's exercise of any such right, prerogative, or function in a particular way, shall not be considered a waiver of the Employer's right to exercise such right, prerogative, or function or preclude it from exercising the same in some other way.

1.5 Equal Employment Opportunity Policy Statement

The City of Plainview is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, recruitment, selection, lay-off (reduction in force), disciplinary action, termination, compensation and selection for training. The City of Plainview will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender (including pregnancy, childbirth, and related medical conditions), gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public

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assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry, reserve or National Guard status, military service, citizenship, or any other basis protected by law, except where there is a bona fide occupational qualification. The City will not discriminate upon any protected class identified by the Minnesota Human Rights Act, the US Civil Rights Act, or the Pregnancy Discrimination Act.

1.6 Data Practices Advisory

Employee records are maintained in a location designated by the City Administrator. Personnel data is retained in personnel files, finance files, and benefit/medical files. Information is used to administer employee salary and benefit programs, process payroll, complete state and federal reports, document employee performance, etc.

Employees have the right to know what data is retained, where it is kept, and how it is used. All employee data will be received, retained, and disseminated according to the Minnesota Government Data Practices Act.

1.7 Amendments to this Policy

All amendments that are substantive in nature must be approved by the City Council. Amendments for the purpose of grammatical, formatting, or other changes that do not change the nature of the policy may be made by the City Administrator. All amendments must be noted on the cover sheet, including, date, nature of amendment (grammatical, substantive, interpretation, etc.), section(s), and who approved it. Amendments made by the City Council shall be done by resolution utilizing the “Underlined content is new. Stricken content is deleted.” method. Amendments by the City Administrator shall be shown similarly in a memo. A signed and dated copy of each amendment shall be placed at the end of the Personnel Policy book as Appendix A.

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SECTION 2. DEFINITIONS

For purposes of these policies, the following definitions will apply:

Benefits

Privileges granted to qualified employees in the form of paid leave such as holiday time and personal time off (PTO), pension plans, and/or insurance coverage.

Benefit Earning Employees

Employees who are eligible for at least a pro-rated portion of City-provided benefits.

City

The City of Plainview and all of the City departments including Administration, Ambulance, Fire, Library, Police, Public Works, and Municipal Liquor Store.

Compensatory Time

Time off from regular hours of work which is granted for work performed or time served beyond the time constituting the normal work week as determined at the discretion of the City.

Demotion

The movement of an employee from one job class to another within the City, where the maximum salary for the new position is lower than that of the employee's former position and/or the new position is at a lower classification.

Direct Deposit

As permitted by state law, all City employees are required to participate in direct deposit.

Discipline

Action taken to control and/or correct an employee's conduct.

Employee

An individual who has successfully completed all stages of the selection process, including the training period.

FLSA Exempt Employee

Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act. To be exempt, employees must meet both the "duties test" and the "salary basis test."

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FLSA Non-Exempt Employee

Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for at least the federal minimum wage and overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek. Some positions, such as Police and Ambulance employees, may have different requirements.

FICA (Federal Insurance Contributions Act)

FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Specifically, FICA requires an employee contribution of 6.2 percent for Social Security and 1.45 percent for Medicare. The City contributes a matching 7.65 percent on behalf of each employee. Certain employees are exempt or partially exempt from these withholdings (e.g., police officers).

Fiscal Year

The period from January 1 to December 31.

Full-Time Employee

Employees who are required to work forty (40) or more hours per week year-round in an ongoing position.

Holiday

Those days officially declared by the City Council and the State of Minnesota.

Hours of Operation

The City's regular hours of operation vary by department as approved by the City Administrator.

Independent Contractor

An individual, company, or firm contractually retained to provide services for a designated period of time and rate of pay. Independent contractors will operate and function under the specific terms of their agreement.

Leave Without Pay

Time off granted an employee for which pay is not authorized or granted.

Management Employee

An employee who is responsible for managing a department or division of the City.

Overtime

Work required to be performed during hours or days other than or beyond those falling within an employee's regularly scheduled hours of work.

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Part-Time Employee

Employees who are required to work less than forty (40) hours per week year-round in an ongoing position. ~~In accordance with federal health care reform laws and regulations, the City shall offer health insurance benefits to eligible employees and their dependents that work on average or are expected to work 30 or more hours per week or the equivalent of 130 hours or more per month. In order to comply with the health care reform law while avoiding penalties, part-time employees will be scheduled according to business needs and in a manner that ensures positions retain part-time status as intended.~~(moved to benefits section)

Pay Period

A fourteen (14) day period beginning at 12 a.m. (midnight) on Sunday through 11:59 p.m. on Saturday, fourteen (14) days later.

Pay Day

Pay day for most employees is the Friday following the end of the pay period. Employees paid other than bi-weekly will be paid when appropriate and closest to a regular pay day.

PERA (Public Employees Retirement Association)

Statewide pension program in which all City employees meeting program requirements must participate in accordance with Minnesota law. The City and the employee each contribute to the employee's retirement account.

Promotion

Movement of an employee from one job class to another within the City, where the maximum salary for the new position is higher than that of the employee's former position.

Reduction in Force (RIF)

Lay-off due to lack of work or for reasons other than discipline.

Seasonal Employee

Employees who work only part of the year (100 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.

Supervisor

An individual having authority, in the interest of the employer, to assign, reward or discipline other employees or responsibility to direct them, or adjust their grievances or to effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not a merely routine or clerical nature but requires the use of independent judgment. Unless otherwise noted, it is to mean "Department Head" or his/her designee.

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Temporary Employee

Employees who work in temporary positions. Temporary jobs might have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

Training Period

A six-month period (12 months for Police) at the start of employment with the City (or at the beginning of a promotion, reassignment, or transfer) that is designated as a period within which to learn the job. The training period is an integral extension of the City's selection process and is used by supervisors for closely observing an employee's work.

Transfer

Movement of an employee from one City position to another of equivalent pay.

Weapons

Weapons are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

Workweek

A workweek is seven consecutive 24-hour periods. For most employees, the workweek will run from Sunday through the following Saturday. With the approval of the City Administrator, departments may establish a different workweek based on coverage and service delivery needs (e.g., police department, fire department, ~~park and recreation~~public works department).

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SECTION 3. CITYWIDE WORK RULES AND CODE OF CONDUCT

3.1 Conduct as a City Employee

In accepting City employment, employees become representatives of the City and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of Plainview. Employees shall exhibit conduct that is ethical, professional, responsive, and of standards becoming of a City employee. Employees shall avoid the appearance of impropriety in their words and actions both on and off the job. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

This policy shall be liberally construed in favor of protecting the public interests by a full disclosure of conflicts of interest and a promotion of ethical standards of conduct for City employees. The following instructions apply regarding specific prohibited actions:

- No employee or member of his/her immediate family shall have a financial interest in or derive a profit from any matter upon which the employee is required to act in the discharge of his/her official duties and fails to disqualify himself/herself from acting or participating.
- No employee shall use or permit the use of any person, funds or property under his/her official control, direction or custody, or any of the City's funds or City property, for a purpose which is, or to a reasonable person would appear to be, for the private benefit of the employee.
- No employee shall have a material interest, personally or through a member of his/her immediate family, in business entities doing or seeking to do business with the City and influence or attempt to influence the selection of, or the conduct of business with the City.
- No employee shall solicit or receive anything of monetary value with the intent to give, obtain, or influence any action by such employee in his/her official capacity. Nothing shall prohibit contributions, including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of the City, or an honorarium, travel or other expenses reimbursed to any employee as a result of a speaking engagement or personal appearance made as a result of that persons' official position.

The following are job requirements for every position at the City of Plainview. All employees are expected to:

- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.

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- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
 - Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
 - Report any and all unsafe conditions to the immediate supervisor.
 - Maintain good attendance while meeting the goals set by your supervisor.

3.2 Attendance and Absence

The operations and standards of service in the City of Plainview require that employees be at work unless valid reasons warrant absence or an employee has a position that has been approved to work remotely. In order for a team to function efficiently and effectively, employees must fully understand the goals that have been set for them and the time that is required to be on the job. Understanding attendance requirements is an essential function of every City position.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of an unexpected absence, employees shall call their supervisor before the scheduled starting time and keep in mind the following procedures:

- If the supervisor is not available at the time, the employee shall leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor.
- Failure to use the established reporting process will be grounds for disciplinary action.
- The employee must call the supervisor on each day of an absence extending beyond one (1) day unless arrangements otherwise have been made with the supervisor.
- Employees who are absent for three (3) days or more and who do not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing. The City may waive this rule if extenuating circumstances warranted such behavior.

This policy does not preclude the City from administering discipline for unexcused absences of less than three (3) days. Individual departments may establish more specific reporting procedures.

The City Administrator will notify the Mayor of his/her absences from work.

Non-exempt employees (eligible for overtime pay) are not authorized to take work home or work through lunch without prior approval from their supervisor.

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3.3 Access to and Use of City Property

Any employee who has authorized possession of keys, tools, cell phones, pagers, or other City-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor.

All such equipment must be turned in and accounted for by any employee leaving employment with the City in order to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. The duplication of keys owned by the City is prohibited unless authorized by the ~~City Administrator~~Department Head. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

Employees are prohibited from using City property for personal purposes, except for the limited exceptions addressed in other policies herein.

3.4 Appearance

Departments may establish dress codes for employees as part of departmental rules. Personal appearance should be appropriate to the nature of the work and contacts with other people and shall present a positive image to the public. Clothing, jewelry, or other items that could present a safety hazard are not acceptable in the workplace.

Dress needs vary by function. Employees who spend a portion of the day in the field need to dress in a professional manner appropriate to their jobs, as determined by their supervisor.

3.5 Conflict of Interest

City employees and elected or appointed officials are to remove themselves from situations in which they would have to take action or make a decision where that action or decision could be a perceived or actual conflict of interest or could result in a personal benefit for themselves or a family member. If an employee has any question about whether such a conflict exists, he/she shall consult with the City Administrator.

More guidance related to conflicts of interest follows:

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3.5.1 Gifts Prohibited

Employees in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any personal payment of expense, compensation, money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, gift, reward, gratuity, favor, promise of future employment or other future benefit from any source, except the City, for any activity related to the duties of the employee unless otherwise authorized by law.

However, the prohibitions in this section do not apply to:

- A. Services to assist an employee in the performance of official duties, including but not limited to providing advice, consultation, information and communication in connection with legislation, and services to constituents;
- B. Services of insignificant monetary value;
- C. A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- D. A trinket or memento costing \$5 or less;
- E. Informational material of unexceptional value; ~~or~~
- F. Food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program; ~~or~~
- G. Gifts given:
 - 1. Because of the recipient's membership in a group, a majority of whose members are not local officials, and an equivalent gift is given or offered to the other members of the group;
 - 2. By an interested person who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family; or
 - 3. By a national or multistate organization of governmental organizations or public officials, if a majority of the dues to the organization are paid from public funds, to attendees at a conference sponsored by that organization, if the gift is food or a beverage given at a reception or meal and an equivalent gift is given or offered to all other attendees.

Department heads shall be responsible for determining whether or not a gift or service falls within this exemption.

In the event there is a question or as to whether a gift or service is exempt, the department head should consult with the City Administrator. The City Administrator's determination shall be final.

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Any gift not authorized by this subdivision may be returned to the donor or transmitted to the City Administrator or turned over to the City to be used by the City or to be sold, with the proceeds of such sale deposited into the general fund of the City. The City Administrator shall be notified within seven (7) days of the receipt of any non-monetary property not authorized by this subdivision.

~~Department heads may adopt more restrictive measures dealing with the definition of the word "gift" and prohibitions on the acceptance of gifts. Such measures must be in writing and must be approved by the City Administrator.~~

No employee shall engage in any other conflict of interest. For example, employees are prohibited from engaging in the following conflicts of interest:

- A. Use or attempted use of the employee's official position to secure benefits, privileges, exemptions or advantages for the employee or the employee's immediate family or an organization with which the employee is associated which are different from those available to the general public;
- B. Acceptance of other employment or contractual relationship that will affect the employee's independence of judgment in the exercise of official duties;
- C. Actions as an agent or attorney in any action or matter pending before the employing city except in the proper discharge of official duties or on the employee's behalf;
- D. The solicitation of a financial agreement for the employee or entity other than the City when the City is currently engaged in the provision of the services which are the subject of the agreement or where the City has expressed an intention to engage in competition for the provision of the services; unless the City waives this clause;
- E. Engaging in a business or transaction which is incompatible with the proper discharge of the person's official duties or which would tend to impair the person's independent judgment or action in the performance of his or her official duties;
- F. Holding a direct or indirect financial interest which is incompatible with the proper discharge of the person's official duties or which would tend to impair the person's independent judgment or action in the performance of his official duties. A financial interest includes ownership of stock, bonds, notes or other securities;
- G. Having a direct or indirect personal interest which is incompatible with the proper discharge of the person's official duties or which would tend to impair the person's independent judgment or action in the performance of his official duties;
- H. Use of confidential information, obtained as a result of public position, for personal gain;

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- I. Holding investments which will or may interfere with the proper discharge of public duty;
- J. Representation for profit of private interests before the City; or
- K. Participation as an employee in a City transaction in which the person has a direct or indirect financial or other personal interest.

A violation of this policy shall be grounds for disciplinary action. Nothing contained herein shall be construed as preventing prosecution under applicable state or federal laws.

3.5.2 Solicitations

The City prohibits solicitation and distribution on its premises or through work mail by non-employees and to permit solicitation and distribution by employees only as outlined below:

- A. Solicitation and distribution are limited on City premises because, when left unrestricted, such activities can interfere with the normal operations, can be detrimental to efficiency, be annoying, and can pose a threat to security.
- B. The City Administrator is responsible for administering this policy and for enforcing its provisions.
- C. Persons who are not employed by the City are prohibited from soliciting funds or signatures, conducting membership drives, posting, distributing literature or gifts, offering to sell or to purchase merchandise or services, (except by representative of suppliers properly identified), or engaging in any other solicitation, distribution, or similar activity on City premises, unless otherwise approved by the City Council.
- D. Solicitation and distribution of literature with appropriate approval should not interfere with working time of either employee making the solicitation or distribution, or the targeted employee. The term “working time” does not include an employee’s authorized lunch or rest periods or other time when the employee is not required to be working.

Employees may solicit donations, contributions, or promote appropriate fundraising activities by posting the event or item on bulletin boards in the employee break rooms in the City whereby an employee may voluntarily donate or participate in the activity. Certain fundraising activities sponsored by the City may be exempted from this provision. The home addresses and home telephone numbers of City employees shall be withheld from all persons, businesses, and organizations.

3.6 Falsification of Records

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Any employee who makes false statements or commits, or attempts to commit, fraud in an effort to prevent the impartial application of these policies will be subject to immediate disciplinary action up to and including termination and potential criminal prosecution.

(this is addressed in Section 20)

~~3.7 Personal Telephone Calls~~

~~Personal telephone calls are to be made or received only when truly necessary (e.g., family or medical emergency). They are not to interfere with City work and are to be completed as quickly as possible. Personal long distance calls on City phones is prohibited. Please refer to the cell phone policy for information on use of cellular phones.~~

3.8 Political Activity

City employees have the right to express their views and to pursue legitimate involvement in the political system. However, no City employee will directly or indirectly, during hours of employment, solicit or receive funds for political purposes. Further, any political activity in the workplace must be pre-approved by the City to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.

3.9 Smoking Tobacco & Tobacco-Related Products

The City of Plainview observes and supports the Minnesota Clean Indoor Air Act. All City buildings and vehicles, in their entirety, shall be designated as tobacco free, meaning that the use of tobacco, smoking in any form (through the use of tobacco products such as pipes, cigars, and cigarettes) or “vaping” with e-cigarettes is prohibited while in a City facility, ~~or~~ vehicle, or on City property.

Smoking of any kind, including pipes, cigars, cigarettes, vaping with e-cigarettes, and the use of chewing tobacco, is prohibited for employees while on duty. Employees 18 and over are allowed to smoke-use tobacco & tobacco-related products only during their breaks and lunch, and only in areas designated for that purpose or off of city premises.

3.10 Nepotism

The City does not restrict employment of more than one member of a family or persons related by blood or marriage, but it does not show favoritism toward hiring relatives of employees. To avoid a conflict of interest, no City employee may take part in decisions to hire, fire, retain, promote, or determine the salary of his/her spouse, other family member, any other relative by blood or

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marriage, someone living in same household, or someone who such employee is in a romantic relationship.

In addition, no City employee may be assigned responsibility for supervising and directing the work of his/her spouse, family member, any other relative by blood or marriage, someone living in same household, or someone who such employee is in a romantic relationship.

3.11 Workplace Resolution Policy

City employees must, unless otherwise established or appropriate, attempt to resolve any workplace issues or concerns with the following individuals in the following order and may only attempt to resolve the issue or concern with the next appropriate individual(s) herein if the preceding individual(s) did not adequately address their issue or concern:

- ~~a.~~1) _____ Immediate supervisor
- ~~b.~~2) _____ Department head
- ~~c.~~3) _____ City Administrator
- ~~d.~~4) _____ Elected official personnel committee

SECTION 4. EMPLOYEE RECRUITMENT AND SELECTION

4.1 Scope

The City Administrator or a designee will manage the hiring process for positions within the City with the exception of the City Administrator. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to City employment. No employee may start work or receive compensation, unless hired by official City Council action. All hires will be made according to merit and fitness related to the position being filled.

4.2 Features of the Recruitment System

The City Administrator or designee will determine if a vacancy will be filled through an open recruitment or by promotion, transfer or some other method. This determination will be made on a case-by-case basis. The majority of position vacancies will be filled through an open recruitment process.

4.3 Application for Employment

Application for employment will generally be made on application forms provided by the City. Other materials in lieu of a formal application may be accepted in certain recruitment situations as determined by the City Administrator or designee. Supplemental questionnaires may be required in certain situations. All candidates must complete and submit the required application materials by the posted deadline in order to be considered for the position. The deadline for application may be extended by the City Administrator. Unsolicited applications will not be kept on file.

Position vacancies may be filled on an “acting” basis as needed. The City Council will approve all acting appointments. Pay rate adjustments, if any, will be determined by the City Council.

4.4 Testing and Examinations

Applicant qualifications will be evaluated in one or more of the following ways: training and experience rating; written test; oral test or interview; performance or demonstrative test; physical agility test; or other appropriate job-related exam. For example:

- Keyboarding exercises for data entry positions.
- Writing exercises for positions requiring writing as part of the job duties.

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- “In-basket” exercise for an administrative support position (sets up real-life scenarios and items that would likely be given to the position for action, and asks the candidate to list and prioritize the steps they would take to complete the tasks).
 - Mock presentation to the City Council for a Department Head position.
 - Scenarios of situations police officers are likely to encounter on the job that test the candidate’s decision-making skills (can be role played or multiple choice questions).

The City Council will establish minimum qualifications for each position with input from the appropriate supervisor. To be eligible to participate in the selection process, a candidate should meet the minimum qualifications.

4.5 Selection Process

The selection process will be a cooperative effort between the City Administrator or designee and the hiring supervisor, subject to final hiring approval of the City Council. Any, all or none of the candidates may be interviewed.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

The City has the right to make the final hiring decision based on qualifications, abilities, experience and the City’s needs.

4.6 Background Checks

All finalists for employment with the City will be subject to a background check to confirm information submitted as part of application materials and to assist in determining the candidate’s suitability for the position. Except where already defined by state law, the City Administrator will determine the level of background check to be conducted based on the position being filled.

4.7 Promoting from Within (Internal Recruitment)

Internal recruitments will be open to any City employee who:

- Has successfully completed the initial training period;
- Meets the minimum qualifications for the vacant position; and
- Currently is, and for the past year has been, in good standing with the City.

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The City Council or designee will establish minimum qualifications for each position with input from the appropriate supervisor. To be eligible to participate in the selection process, a candidate must meet the minimum qualifications.

4.8 Pre-Employment Medical Exams

The City Administrator or designee may determine that a pre-employment medical examination, which may include a psychological evaluation, is necessary to determine fitness to perform the essential functions of any City position. Where a medical examination is required, an offer of employment is contingent upon successful completion of the medical exam.

When a pre-employment medical exam is required, it will be required of all candidates who are finalists and/or who are offered employment for a given job class. Information obtained from the medical exam will be treated as confidential medical records.

When required, the medical exam will be conducted by a licensed physician designated by the City with the cost of the exam paid by the City. Psychological/psychiatric exams will be conducted by a licensed psychologist or psychiatrist designated by the City with the cost of the exam paid by the City. The physician will notify the City Administrator or designee that a candidate either is or isn't medically able to perform the essential functions of the job, with or without accommodations, and whether the candidate passed a drug test, if applicable. If the candidate requires accommodation to perform one or more of the essential functions of the job, the City Administrator or designee will confer with the physician and candidate regarding reasonable and acceptable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this determination.

4.9—Area Residency Requirement

~~All employees of the City that are defined as “essential employees” shall live within five minutes of the Plainview City limits. “Essential employees” are the following:~~

- ~~• Police chief and assistant police chief;~~
- ~~• Director of Public Works and all full-time public works assistants; and~~
- ~~• Ambulance Director.~~

4.10—Selection Process

~~The selection process will be a cooperative effort between the City Administrator or designee and the hiring supervisor, subject to final hiring approval of the City Council. Any, all, or none of the candidates may be interviewed.~~

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~~The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Any person seeking re-employment (seasonal or temporary employees and employees who have previously resigned, retired, or been terminated) must apply and be processed as any other applicant. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.~~

~~The City has the right to make the final hiring decision based on qualifications, abilities, experience and City of Plainview needs.~~

4.11 Training Period

The training period is an integral part of the selection process and will be used for the purpose of closely observing the employee's work and for training the employee in work expectations. Training periods apply to new hires, transfers, promotions, and rehires. Training periods are six months in duration (12 months for Police), but may be extended by, for example, an unpaid leave of absence.

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SECTION 5. ORGANIZATION

5.1 Job Descriptions

The City will maintain job descriptions for each regular position. New positions will be developed as needed but must be approved by the City Council prior to the position being filled.

A job description is prepared for each position within the City. Each job description will include: position title, department, supervisor's title, FLSA status (exempt or non-exempt), primary objective of the position, essential functions of the position, examples of performance criteria, minimum requirements, desirable training and experience, supervisory responsibilities (if any), and extent of supervisory direction or guidance provided to the position. Good attendance and compliance with work rules and policies are essential functions of all City positions.

Prior to posting a vacant position the existing job description is reviewed by the City Administrator or designee and the hiring supervisor to ensure the job description is an accurate reflection of the position and that the stated job qualifications do not present artificial barriers to employment.

A current job description is provided to each new employee. Supervisors are responsible for revising job descriptions as necessary to ensure that the position's duties and responsibilities are accurately reflected. All revisions are reviewed and must be approved by the City Administrator and the City Council.

Assignment of job titles, establishment of minimum qualifications, and the maintenance of job descriptions and related records is the responsibility of the City Administrator.

5.2 Assigning and Scheduling Work

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the City Administrator.

5.3 Layoff

In the event it becomes necessary to reduce personnel, temporary employees and those serving a probationary period in affected job classes will be terminated from employment with the city before other employees in those job classes. Within these groups, the selection of employees to be retained will be based on merit and ability as determined by the City Administrator, subject to approval of the City Council. When all other considerations are equal, the principle of seniority will apply in layoffs and recall from layoffs.

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5.4 Employee Evaluations and Performance Management

City employees are essential to providing services to the public. To provide high quality, efficient and cost-effective services, the performance of employees is crucial. Therefore, the City is committed to a performance management system for its employees that communicates performance expectations for job duties and responsibilities; workplace standards and goals and objectives; identifies an employee's strengths and areas for improvement in meeting these expectations; and fosters an employee's job development. To meet this commitment, the City requires the following:

1. Ongoing feedback to, and candid discussions with, employees about their performance throughout the year;
2. Developing and rewarding good performance;
3. Formal personnel actions as necessary to address performance problems through coaching, counseling, performance improvement plans and/or progressive discipline; and
4. An annual performance evaluation that addresses prior and future performance of the employee. Employees are required to review any written document provided to them and discuss with their supervisor these actions.

An objective performance review system will be established by the City Administrator or designee for the purpose of periodically evaluating the performance of City employees. The quality of an employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations and, where applicable, salary adjustments.

Performance reviews will be discussed with the employee. While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable using the City's grievance process, other performance evaluation data, including subjective assessments, are not. For those parts of the performance evaluation system deemed not challengeable, an employee may submit a written response, which will be attached to the performance review. The form, with all required signatures, will be retained as part of the employee's personnel file.

During the training period, informal performance meetings shall occur frequently between the supervisor and the employee. Conducting these informal performance meetings provides both the supervisor and the employee the opportunity to discuss what is expected, what is going well and not so well. The performance of employees on probation shall be evaluated at the end of the required probationary period. The purpose of this review is to appraise the progress and performance of new employees.

Signing of the performance review document by the employee acknowledges the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing.

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A new evaluation form must be completed each time an employee is given a promotion, unless a previous evaluation has been prepared within sixty (60) days of the status adjustment.

Department Heads are responsible for evaluating all departmental employees. The City Administrator is responsible for evaluating the Department Heads, except for the Library Director who will be evaluated by the Library Board. The City Council is responsible for evaluating the City Administrator.

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SECTION 6. HOURS OF WORK

6.1 Work Hours

Employee work schedules and opportunities to work remotely will be established by supervisors with the approval of the City Administrator.

6.2 Meal Breaks and Rest Periods

A paid 15-minute break is allowed within each four (4) consecutive hours of work. An unpaid 30-minute lunch period is provided when an employee works eight (8) or more consecutive hours. However, individual departments may have different break time policies based on the unique needs of the department and staffing resources available to them. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or lunch time by saving these breaks.

Employees working in City buildings will normally take their break at the place provided for that purpose in each building. Employees working out-of-doors will normally take their break at the location of their work. Employees who travel to take their breaks and/or lunch will deduct the travel time from their break/lunch time.

Departments with unique job or coverage requirements may have additional rules, issued by the supervisor and subject to approval of the City Administrator, on the use of meal breaks and rest periods.

6.3 Time Cards

Pay periods cover a two-week time frame and begin at 12:00 a.m. (midnight) on Sunday and end at 11:59 p.m. on Saturday, fourteen (14) days later. The City of Plainview operates on a calendar year providing twenty-six (26) individual pay checks to employees.

Employees are required to submit signed time cards for every payroll period, and Department Heads are required to approve employees' timecards. Employees who do not submit time cards by 9:00 am the morning of payroll will have to wait until the next payroll period to receive compensation. False information on a time card will be cause for disciplinary action.

6.4 Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or

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leave early). Employees not reporting to work or leaving early for reasons of personal safety or if City facilities are closed by the Mayor will be allowed to use accrued PTO or compensatory time equivalent to the difference between their scheduled hours of work and hours worked; or with supervisor approval may modify the work schedule or make other reasonable schedule adjustments.

Sworn police officers and public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective Department Head or the City Administrator.

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SECTION 7. COMPENSATION AND PAY SCALE

The City of Plainview complies with the requirements of the Minnesota Pay Equity Act. Full-time employees of the City will be compensated according to schedules adopted by the City Council. Unless approved by the Council, employees will not receive any amount from the City in addition to the pay authorized for the positions to which they have been appointed. Expense reimbursement or travel expenses may be authorized in addition to regular pay.

Compensation for seasonal and temporary employees will be set by the City Council at the time of hire, or on an annual basis.

7.1 Wage Disclosure

Under the Minnesota Wage Disclosure Protection Law, employees have the right to tell any person the amount of their own wages. While the Minnesota Government Data Practices Act (Minn. Stat. §13.43), specifically lists an employee's actual gross salary and salary range as public personnel data, Minnesota law also requires wage disclosure protection rights and remedies to be included in employer personnel handbooks. To that end, and in accordance with Minn. Stat. §181.172, employers may not:

- Require nondisclosure by an employee of his or her wages as a condition of employment.
- Require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages.
- Take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.
- Retaliate against an employee for asserting rights or remedies under Minn. Stat. §181.172, subd. 3.

The City cannot retaliate against an employee for disclosing his/her own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the City and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5070 or (800) 342-5354.

7.2 Direct Deposit

As provided for in Minnesota law, all employees other than firefighters or other persons who are expected to receive only one or two paychecks a year, are required to participate in direct deposit. Employees are responsible for notifying the City Administrator of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc.

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7.3 Time Reporting

Full-time, non-exempt employees are expected to work the number of hours per week as established for their position. In most cases, this will be 40 hours per workweek, except for public safety employees. They will be paid according to the time reported on their time sheets. To comply with the provisions of the federal and state Fair Labor Standards Acts, hours worked and any leave time used by non-exempt employees are to be recorded daily and submitted to payroll on a bi-weekly basis. Each time reporting form must include the signature of the employee and immediate supervisor. Reporting false information on a time sheet may be cause for discipline, up to and including termination.

FLSA exempt employees must record on their timecards the time they worked as well as time off taken during the workday. At least 40 hours must be accounted for by FLSA exempt employees on the timecards each work week.

7.4 Non-Exempt (Overtime-Eligible) Employees

All overtime-eligible employees will be compensated at the rate of time-and-one-half for all hours worked over their normal daily work shift, their scheduled daily work shift, or over 40 hours in one workweek ~~or, for employees of the police department, for all hours worked over the hours established by law (86 hours in a 14 day period)~~. PTO and paid holidays ~~do~~ count toward “hours worked.”

Compensation will take the form of either time-and-one-half pay or compensatory time at time-and-one-half.

For most employees, the workweek begins at midnight on Sunday and runs until the following Saturday night at 11:59 p.m. Supervisors may establish a different workweek based on the needs of the department, subject to the approval of the City Administrator.

The employee’s supervisor must approve overtime hours in advance. An employee who works overtime without prior approval may be subject to disciplinary action.

Overtime earned will be paid at the rate of time-and-one-half on the next regularly scheduled payroll date, unless the employee indicates on his/her timesheet that the overtime earned is to be recorded as compensatory time in lieu of payment.

The maximum compensatory time accumulation for any employee is 40 hours. Once an employee has earned 40 hours of compensatory time, no further compensatory time may accrue until their balance is less than 40 hours. All further overtime will be paid. Employees may request and use compensatory time off in the same manner as other leave requests.

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All compensatory time will be marked as such on official time sheets, both when it is earned and when it is used. The Administration Department will maintain compensatory time records. All compensatory time accrued will be paid when the employee leaves City employment at the hourly pay rate the employee is earning at that time.

7.5 Exempt (Non-Overtime-Eligible) Employees

Exempt employees are expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Generally, to meet these expectations, and for reasons of public accountability, an exempt employee will need to work 40 or more hours per week. Exempt employees do not receive compensatory time or extra pay for the hours worked over 40 in one workweek.

The normal business hours for exempt employees are determined based on the needs of their respective department as approved by the City Administrator. Exempt employees are generally expected to be available to the public during their normal business hours.

If an exempt employee works extra hours, due to unique circumstances, he or she may adjust their working hours during the same work week or immediately succeeding work week if operationally feasible to do so.

If one of the above employees is regularly absent from work under this policy and it is found that there is excessive time away from work that is not justified, the situation will be handled as a performance issue. If it appears that less than 40 hours per week is needed to fulfill the position's responsibilities, the position will be reviewed to determine whether a part-time position will meet the needs of the city. Additional notification and approval requirements may be adopted by the City Administrator for specific situations as determined necessary.

Exempt employees are paid on a salary basis. This means they receive a predetermined amount of pay each pay period and are not paid by the hour. Their pay does not vary based on the quality or quantity of work performed, and they receive their full weekly salary for any week in which any work is performed.

The City will only make deductions from the weekly salary of an exempt employee in the following situations:

- The employee is in a position that earns PTO, receives a short-term disability benefit or workers' compensation wage loss benefits and is absent for a full day due to sickness or disability, but he/she has exhausted all of his/her PTO.

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- The employee is absent for a full workweek and, for whatever reason, the absence is not charged to PTO (for example, a situation where the employee has exhausted all of his/her PTO or a situation where the employee does not earn PTO).
 - The very first workweek or the very last workweek of employment with the City in which the employee does not work a full week. In this case, the City will prorate the employee's salary based on the time actually worked.
 - The employee is in a position that earns PTO and is absent for a partial day due to personal reasons, illness or injury, but:
 - ◆ PTO has not been requested or has been denied;
 - ◆ PTO is exhausted;
 - ◆ The employee has specifically requested unpaid leave;
 - ◆ The employee is suspended without pay for a full day or more for disciplinary reasons for violations of any written policy that is applied to all employees.
 - ◆ The employee takes unpaid leave under the FMLA.
 - ◆ The City may for budgetary reasons implement a voluntary or involuntary unpaid leave program and, under this program, make deductions from the weekly salary of an exempt employee. In this case, the employee will be treated as non-exempt for any workweek in which the budget-related deductions are made.

The City will not make deductions from pay due to exempt employees being absent for jury duty or attendance as a witness but will require the employee to pay back to the City any amounts received by the employee as jury fees or witness fees.

If the City inadvertently makes an improper deduction to the weekly salary of an exempt employee, the City will reimburse the employee and make appropriate changes to comply in the future.

All employees, in all departments, are required to work overtime as requested by their supervisors as a condition of continued employment. Refusal to work overtime may result in disciplinary action. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work.

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SECTION 8. BENEFITS

8.1 Health, ~~Dental~~, and Life Insurance

The City will contribute a monthly amount toward group health and life insurance benefits for each eligible employee and his/her dependents.

In accordance with federal health care reform laws and regulations, the City shall offer health insurance benefits to eligible employees and their dependents that work on average or are expected to work 30 or more hours per week or the equivalent of 130 hours or more per month. In order to comply with the health care reform law while avoiding penalties, part-time employees will be scheduled according to business needs and in a manner that ensures positions retain part-time status as intended. (this was moved here from definitions)

For information about coverage and eligibility requirements, employees should refer to the summary plan description or contact the City Administrator.

8.2 Retirement/PERA

The City participates in the Public Employees Retirement Association (PERA) to provide pension benefits for its eligible employees to help plan for a successful and secure retirement. Participation in PERA is mandatory for most employees, and contributions into PERA begin immediately. The City and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each pay check for Social Security and Medicare (the City matches the employee's Social Security and Medicare withholding). For information about PERA eligibility and contribution requirements, contact the City Administrator.

~~8.3—Tuition Reimbursement~~

~~To be considered for tuition reimbursement, the employee must be in good standing and have been employed by the city for at least one year. All requests for tuition reimbursement will be considered on a case-by-case basis by the City Administrator, with final approval/disapproval provided by the City Council.~~

~~Courses taken for credit at an approved educational institution must meet the following criteria to be approved for reimbursement:~~

- ~~• Courses must be directly related to the employee's present position (whether required for a degree program or not); OR~~

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- ~~• Courses must be directly related to a reasonable promotional opportunity in the same field of work as present position (whether part of a degree program or not).~~

~~The City will pay the cost of tuition upon successful completion (C grade or better; “pass” in a pass/fail course) of the approved course. Reimbursements will be prorated for part time employees. The maximum reimbursement per course will be based on an average course cost at the University of Minnesota. Employees may elect to attend a more costly school provided they pay the difference in cost. Employees must reimburse the city if they voluntarily leave employment within twelve (12)~~

~~months of receiving tuition reimbursement from the city. Tuition reimbursement for an individual employee will not exceed the available departmental training budget.~~

Title: Holidays

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SECTION 9. HOLIDAYS

The City observes the following official holidays for all regular full-time and part-time employees:

New Year's Day	Veteran's Day
Martin Luther King, Jr. Day	Thanksgiving Day
President's Day	Friday after Thanksgiving
Memorial Day	Christmas Eve (1/2 day)
Independence Day	Christmas Day
Labor Day	

Official holidays commence at the beginning of the first shift of the day on which the holiday is observed and continue for twenty-four (24) hours thereafter.

When a holiday falls on a Sunday, the following Monday will be the "observed" holiday and when a holiday falls on a Saturday, the preceding Friday will be the "observed" holiday for City operations/facilities that are closed on holidays. When Christmas Eve falls on a Sunday, the following Tuesday morning will be the "observed" holiday for City operations/facilities that are closed on holidays.

Full-time employees will receive 8 hours pay for official holidays at their normal straight time rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Any employee on a leave of absence without pay from the City is not eligible for holiday pay.

Premium pay of 1.5 times the regular hourly wage for non-exempt employees required to work on a holiday will be for hours worked on the "actual" holiday as opposed to the "observed" holiday.

Employees wanting to observe holidays other than those officially observed by the City may request either vacation leave or unpaid leave for such time off.

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SECTION 10. LEAVES OF ABSENCE

10.1 Paid Time Off (PTO)

Paid Time Off (PTO) replaces individual sick leave and vacation leave and combines them into a single benefit program. PTO does not replace city observed holidays, jury duty, military leave, or court leave. Employees accrue PTO based on length of service with the city or based on contractual obligations. Plan provisions discourage unnecessary utilization by providing cash and savings incentives.

PTO can be used for any reason, subject to existing request and approval procedures. As with all paid time off programs, the city needs to ensure that service to the public and work requirements are not adversely impacted.

10.1.1 Accrual Rates for PTO

Full-time employees will accrue PTO in accordance with the following schedule:

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
Less than 1 Year	80 hours
1 Year	100 hours
2+ Years	120 hours
5+ Years	140 hours
10+ Years	160 hours
15+ Years	200 hours

Full-time employees hired before January 1, 2018, will accrue PTO in accordance with the following schedule:

<u>Years of Service</u>	<u>Annual Accrual Rates</u>
Less than 1 Year	120 hours
1 Year	140 hours
2+ Years	160 hours
5+ Years	180 hours
10+ Years	200 hours
15+ Years	220 hours
20+ Years	240 hours
25+ Years	260 hours

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~~Annual leave~~PTO will not accrue during unpaid leaves. Regular part-time employees who average 20+ hours per week will accrue PTO on a prorated basis based on regular hours worked.

PTO will accrue on a pay-period basis up to a maximum of twice the employee's ~~maximum~~ annual accrual rate as noted above.

<u>Years of Service</u>	<u>Annual Accrual Rates</u>	<u>Maximum Accumulation</u>
<u>Less than 1 Year</u>	<u>120 hours</u>	<u>240 hours</u>
<u>1 Year</u>	<u>140 hours</u>	<u>280 hours</u>
<u>2+ Years</u>	<u>160 hours</u>	<u>320 hours</u>
<u>5+ Years</u>	<u>180 hours</u>	<u>360 hours</u>
<u>10+ Years</u>	<u>200 hours</u>	<u>400 hours</u>
<u>15+ Years</u>	<u>220 hours</u>	<u>440 hours</u>
<u>20+ Years</u>	<u>240 hours</u>	<u>480 hours</u>
<u>25+ Years</u>	<u>260 hours</u>	<u>520 hours</u>

Employees can carry over any annual leave that does not exceed the stated cap. No additional accrual will occur above the cap.

10.1.2 PTO Conversion Option

Employees may convert their PTO hours from the end of the previous year to cash as follows:

<u>Years of Service</u>	<u>Hours of Conversion Allowed</u>
Years 0 – 5	60 hours per year
Years 6 – 10	80 hours per year
Years 11 – 14	100 hours per year
Years 15 and over	120 hours per year

An employee may request the conversion option once in December. Notification must be in writing and turned in to Payroll two weeks prior to the start date of the pay period in which payment is to be received. (Note: ~~the~~The Conversion Option will be included in the regular payroll check and taxes will be deducted from the money requested).

Non-exempt (hourly) employees may cash out any or all accumulated compensatory (comp) time balances in conjunction with PTO as long as the total hours cashed in are within the Hours of Conversion Allowed listed above.

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10.2 Medical Certification, Generally

Good attendance is an essential job function for all city employees. If unplanned absences are excessivemore than three days, a doctor's certification may be required. The physician's certification is to state the nature and duration of the illness or injury and verify that the employee is unable to perform the duties and responsibilities of his/her position.

A statement attesting to the employee's ability to return to work and perform the essential functions of the job and a description of any work restrictions may also be required before the employee returns to work.

10.3 ~~Funeral~~Bereavement Leave

Full-time employees, who have been employed with the City at least ninety (90) days, will be permitted to use up to three (3) ~~consecutive~~ working days within a two week period, with pay, as funeral-bereavement leave upon the impending death or death of an immediate family member defined as: spouse, child, parents, parent-in-law, brothers, sisters, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparents, grandparent-in-law and grandchildren of the employee and the employee's spouse. This paid leave will not be deducted from the employee's PTO balance.

The actual amount of time off, and funeral leave approved, will be determined by the supervisor or City Administrator depending on individual circumstances, such as the closeness of the relative, arrangements to be made, distance to the funeral, etc.

10.4 Military Leave

State and federal laws provide protections and benefits to City employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of 15 days in any calendar year.

The leave of absence is only in the event the employee returns to employment with the City as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the City at least ten (10) working days in advance of the requested leave.

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If an employee has not yet used his/her fifteen (15) days of paid leave when called to active duty, any unused paid time will be allowed for the active duty time, prior to the unpaid leave of absence.

Employees returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

Eligibility for continuation of insurance coverage for employees on military leave beyond fifteen (15) days will follow the same procedures as for any employee on an unpaid leave of absence.

10.5 Jury Duty

Regular full-time and part-time employees will be granted paid leaves of absence for required jury duty. Such employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. Time spent on jury duty will not be counted as time worked in computing overtime.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Employees are required to notify their supervisor as soon as possible after receiving notice to report for jury duty. The employee will be responsible for ensuring that a report of time spent on jury duty and pay form is completed by the clerk of court so the City will be able to determine the amount of compensation due for the period involved.

Temporary and seasonal employees are generally not eligible for compensation for absences due to jury duty, but can take a leave without pay subject to Department Head approval. However, if a temporary or seasonal employee is classified as exempt, he/she will receive compensation for the jury duty time.

10.6 Court Appearances

Employees will be paid their regular wage to testify in court for City-related business. Any compensation received for court appearances (e.g., subpoena fees) arising out of or in connection with City employment, minus mileage reimbursement, must be turned over to the City.

10.7 Victim or Witness at Criminal Trial Leave

An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, or is the spouse or immediate family member

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(immediate family member includes parent, spouse, child or sibling of the employee) of such victim, reasonable time off from work to attend criminal proceedings related to the victim's case.

10.8 Pregnancy and Parenting Leave

Employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence under the Pregnancy and Parenting Leave Act of Minnesota. Female employees for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions as well as a biological or adoptive parent in conjunction with after the birth or adoption of a child as eligible for up to 12 weeks of unpaid leave and must begin within twelve (12) months of the birth or adoption of the child. In the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital. Employee shall provide reasonable notice, which is at least 30 days. If the leave must be taken in less than three days, the employee shall give as much notice as practicable.

Employees are required to use accrued PTO during Parenting Leave. If the employee has any FMLA eligibility remaining at the time this leave commences, this leave will also count as FMLA leave.

The two leaves will run concurrently. The employee is entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave. Group insurance coverage will remain available while the employee is on leave pursuant to the Pregnancy and Parenting Leave Act, but the employee will be responsible for the entire premium unless otherwise provided in this policy (i.e., where leave is also FMLA qualifying). For employees on an FMLA absence as well, the employer contributions toward insurance benefits will continue during the FMLA leave absence.

10.9 Administrative Leave

Under special circumstances, an employee may be placed on an administrative leave pending the outcome of an internal or external investigation. The leave may be paid or unpaid, depending on the circumstances, as determined by the City Administrator with the approval of the City Council.

10.10 Adoptive Parents

Adoptive parents will be given the same opportunities for leave as biological parents (see provisions for Parenting Leave). The leave must be for the purpose of arranging the child's placement or caring for the child after placement. Such leave must begin before or at the time of the child's placement in the adoptive home.

10.11 School Conference and Activities Leave

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Any employee who has worked half-time or more for more than one year may take unpaid leave for up to a total of sixteen (16) hours during any 12-month period to attend school conferences or classroom activities related to the employee's child (under 18 or under 20 and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours. When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the City. Employees may choose to use PTO for this absence but are not required to do so.

10.12 Bone Marrow Donation Leave

Employees working an average of 20 or more hours per week may take PTO, not to exceed 40 hours unless agreed to by the City, to undergo medical procedures to donate bone marrow.

The City may require a physician's verification of the purpose and length of the leave requested to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

10.13 Election Judge and Voting

Pursuant to Minnesota Statute 204B.195, An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off without pay for purposes of serving as an election judge, provided that the employee gives the City at least ten (240) days written notice. The City shall reduce the salary or wages of an employee serving as an election judge by the amount paid to the employee by the appointing authority during the time the employee was absent from the place of employment.

The written request to be absent from work must be accompanied by a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve. The City may restrict the number of persons to be absent from work for the purpose of serving as an election judge to no more than 20 percent of the total work force at any single worksite.

All employees eligible to vote at a State general election, at an election to fill a vacancy in the office of United States Senator or Representative, or in a Presidential primary, will be allowed time off with pay to vote on the election day. Employees wanting to take advantage of such leave are required to work with their supervisors to avoid coverage issues.

10.14 Family and Medical Leave

10.14.1 Eligibility

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To qualify to take family and medical leave (FMLA) under this policy, an employee must meet all of the following conditions:

- Have worked for the City for 12 months (or 52 weeks) prior to the date the leave is to commence. The 12 months or 52 weeks need not have been consecutive; however, the City will not consider any service 7 years prior to the employee's most recent hire date.
- Have worked at least 1,250 hours during the 12-month period prior to the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act ("FLSA") determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

10.14.2 Types of Leave Covered

Leave will be granted to all eligible employees (male and female) for any of the following reasons:

- The birth of a child, including prenatal care, or placement of a child with the employee for adoption or foster care;
- To care for a spouse, child or parent who has a serious health condition;
- Due to a serious health condition that makes the employee unable to perform the essential functions of the position; and
- A covered military member's active duty or call to duty or to care for a covered military member (Military Caregiver and Qualified Exigency Leave) (described below).

10.14.3 Definitions

- "Caring" for a covered family member includes psychological as well as physical care. It also includes acquiring care and sharing care duties.
- An eligible "child" is defined as a person under 18 years of age (or a person incapable of self-care because of a physical or mental disability) who is a biological, adopted, foster, or step child, a legal ward of the employee, or a person with whom the employee is charged with a parent's rights, duties and responsibilities.
- "Spouse" does not include domestic partners or common-law spouses.

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- An eligible "parent" includes a biological parent or a person who was charged with parental rights, duties and responsibilities over the employee when the employee was under the age of 18; "parent" doesn't include in-laws.
 - "Serious Health Condition" as defined under the FMLA means an illness, injury, impairment, or physical or mental condition that involves one of the following:
 - Hospital Care: Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
 - Pregnancy: Any period of incapacity due to pregnancy, prenatal medical care or child birth;
 - Absence Plus Treatment: A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider.
 - Chronic Conditions Requiring Treatments. An incapacity from a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity;
 - Permanent/Long-term Conditions Requiring Supervision;
 - Multiple Treatments: Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.
 - "Incapacity" means inability to work, attend school or perform other regular daily activities.

10.14.4 Length and Amount of Leave

The length of FMLA leave is not to exceed twelve (12) weeks in any twelve (12) month period. The leave year is calculated based on a rolling backward date.

The entitlement to FMLA leave for the birth or placement of a child for adoption expires twelve (12) months after the birth or placement of that child.

10.14.5 How Leave May be Taken

FMLA leave may be taken in 12 (or less) consecutive weeks, may be used intermittently (a day periodically when needed) or may be used to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks.

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Intermittent Leave may be taken when medically necessary for the employee's serious health condition or to care for a seriously ill family member. Intermittent leave must be documented in the medical certification form as medically necessary.

If an employee is taking leave intermittent or leave on a reduced schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as to not disrupt the City's business.

In instances when intermittent or reduced schedule leave for the employee or employee's family member is foreseeable or is for planned medical treatment, including recovery from a serious health condition, the City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

Intermittent/reduced scheduled leave may be taken to care for a newborn or newly placed adopted or foster care child only with the City's approval.

10.14.6 Notice of Need for FMLA Leave

All employee requesting FMLA leave must provide written or verbal notice of the need for the leave to the City Council or its designee(s).

When the need for the leave is foreseeable, the employee must give verbal or written notice to the City Council or its designee(s) at least thirty (30) days prior to the date on which leave is to begin.

If thirty (30) days' notice cannot be given, the employee is required to give as much notice as practicable, including following required call-in procedures.

If an employee fails to give thirty (30) days' notice for a foreseeable leave with no reasonable explanation for the delay, the leave may be denied until thirty (30) days after the employee provides notice.

10.14.7 Medical Certification and Documentation Requirements

For leave due to ~~an employee's~~the serious health condition of an employee or the employee's ~~or a family member's~~, the City will require the completion of a Medical Certification form by the attending physician or practitioner.

The form must be submitted to the City ~~Council Administrator or its designee(s)~~ within fifteen (15) calendar days after requested. If the form is not submitted in a timely fashion,

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the employee must provide a reasonable explanation for the delay. Failure to provide medical certification may result in a denial or delay of the leave.

The City may require an employee to obtain a second opinion from a provider which the City selects. If necessary to resolve a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor. This third opinion will be considered final. An employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

When Leave is due to an employee's own serious health condition, a fitness for duty certification (FFD) may be required before an employee can return to work. Failure to timely provide such certification may eliminate or delay an employee's right to reinstatement under the FMLA.

If an employee is using intermittent leave, and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, a FFD certificate may be required as frequently as every 30 days during periods when the employee has used intermittent leave.

10.14.8 Recertification

Recertification of the need for leave may be required if the employee requests an extension of the original length approved by the City or if the circumstances regarding the leave have changed. Recertification may also be required if there is a question as to the validity of the certification or if the employee is unable to return to work due to the serious health condition.

10.14.9 Reinstatement

Employees returning from Family and Medical Leave will be reinstated in the same position or a position equivalent in pay, benefits and other terms and conditions of employment.

An employee's reinstatement rights are the same as they would have been had the employee not been on leave. Thus, if an employee's position would have been eliminated or an employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

10.14.10 Notice of Intent to Return from FMLA Leave

The City requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

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10.14.11 Effect on Benefits

An employee granted leave under this policy will continue to be covered under the City's group health insurance plan under the same conditions and at the same level of City contribution as would have been provided had they been continuously employed during the leave period. All paid benefits run concurrently with unpaid FMLA benefits. For example, STD benefits, if available, will run concurrently with unpaid FMLA leave so that an employee will receive STD benefits while taking up to 12 weeks of FMLA leave. If there are changes in the City's contribution levels while the employee is on leave, those changes will take place as if the employee were still on the job.

The employee will be required to continue payment of the employee portion of group insurance coverage while on leave. If paid leave is being used during an FMLA leave, the employee's share of group health plan premiums must be paid by the method normally used during paid leave (usually payroll deduction). An employee on unpaid FMLA leave must make arrangements to pay the normal employee portion of the insurance premiums in order to maintain insurance coverage. Arrangements for payment of the employee's portion of premiums must be made by the employee with the City.

10.14.12 Failure to Return to Work after FMLA

Under certain circumstances, if the employee does not return to work at the end of the FMLA leave for at least 30 calendar days, the City may require the employee to repay the portion of the monthly cost paid by the City for group health plan benefits. The City may also require the employee to repay any amounts the City paid on the employee's behalf to maintain benefits other than group health plan benefits.

If an employee does not return to work following 12 weeks of FMLA leave, the employee may be subject to COBRA continuation.

If the employee fails to pay the City a portion of the premiums for which he or she is responsible during the FMLA leave and the employee fails to return to work, coverage may end. Loss of coverage for failure to pay premiums is not a qualifying event for purposes of continuation coverage under COBRA.

If the employee does not return from the FMLA leave and coverage ended sometime during the FMLA leave due to lack of payment, there is no COBRA election available. For COBRA to apply, the employee must have been covered on the day before the qualifying event. In this situation, the qualifying event would occur at the time the employee did not return from the leave.

10.14.13 Activities Prohibited During FMLA

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While on leave, an employee may not engage in activities (including employment) which have the same or similar requirements and essential functions of an employee's current position.

While on leave, an employee may not engage in any activity that conflicts with the best interests of the City. Such conduct will result in disciplinary action up to and including termination of employment.

10.14.14 Seniority

Seniority does not accrue during any period of unpaid FMLA except as allowed when the leave is covered by worker's compensation. However, seniority accrued prior to commencement of FMLA leave will not be lost.

10.14.15 Use of Accrued Paid Leave or Compensatory Time During Family and Medical Leave

Prior to taking unpaid FMLA leave employees must use all accrued compensatory time and PTO, ~~prior to taking an unpaid leave~~ unless their medical condition/injury is covered by worker's compensation or the absence qualifies under the Parental Leave Policy.

Any paid disability leave benefits available to employees for covered reason, such as an employee's serious health condition or a covered family member's serious health condition, including workers' compensation leave, to the extent that it qualifies, will run concurrently with FMLA.

10.14.16 Additional Leave

Employees who cannot return from an approved FMLA leave at the end of the approved leave period may request an extension (up to the maximum of twelve (12) weeks allowed under FMLA). If the twelve (12) FMLA weeks have already been used, the employee can request to go on a regular unpaid leave of absence. If approved, before unpaid leave begins the employee must use any accrued PTO that remains. If the leave is approved and unpaid, the employee will be required to pay the full cost of all group insurance, as provided under COBRA, in order to continue coverage.

If the unpaid leave of absence is not approved or the employee fails to request additional leave, the employee will be considered to have voluntarily resigned. If circumstances beyond the employee's control prevented the employee from requesting additional leave, a retroactive leave request may be allowed, subject to the City Council's approval.

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10.15 Reasonable Unpaid Work Time for Nursing Mothers

Nursing mothers will be provided reasonable unpaid break time for nursing mothers to express milk for nursing her child for one year after the child's birth. The City will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

10.16 Elected Official Leave

An employee elected to a public office is permitted time off from regular employment to attend meetings required by reason of the public office. The time off may be without pay, with pay, or made up with other hours, as agreed between the employee and employer. When an employee takes time off without pay, the employer shall make an effort to allow the employee to make up the time with other hours when the employee is available.

10.17 Civil Air Patrol Leave

An employee may receive a leave of absence without pay for time spent rendering service as a member of the civil air patrol on the request and under the authority of the state or any of its political subdivisions, unless the leave would unduly disrupt the operations of the employer.

10.18 Domestic Abuse and Harassment Restraining Order Leave

An employee may take reasonable time off from work to obtain or attempt to obtain relief under the Domestic Abuse Act, Minn. Stat. § 518B.01 (2014), as amended or a restraining order under Minn. Stat. § 609.748 (2014), as amended. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave shall be kept confidential by the employer.

10.19 Regular Leave without Pay

The City Council may authorize leave without pay to a maximum of one year. Normally employee benefits will not be earned by an employee while on leave without pay. However, the city's contribution toward health and life insurance may be continued, if approved by the City Council, for leaves of up to 90 days when the leave is for medical reasons.

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If an employee is on a regular leave without pay and is not working any hours, the employee will not accrue (or be paid for) holidays or PTO. Employees who are working reduced hours while on this type of leave will receive holiday pay on a prorated basis and will accrue sick leave and vacation leave based on actual hours worked.

Leave without pay hours will not count toward seniority and all accrued PTO must normally be used before an unpaid leave of absence will be approved.

To qualify for leave without pay, an employee need not have used all PTO earned unless the leave is for medical reasons. Leave without pay for purposes other than medical leave or work-related injuries will be at the convenience of the City.

Employees returning from a leave without pay for a reason other than a qualified Parenting Leave or FMLA will be guaranteed return to the original position only for absences of thirty (30) calendar days or less.

Employees receiving leave without pay in excess of thirty (30) calendar days for reasons other than qualified Parenting Leave or FMLA, are not guaranteed return to their original position. If their original position or a position of similar or lesser status is available, it may be offered at the discretion of the City Administrator subject to approval of the City Council.

Title: Accommodations

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SECTION 11. ACCOMODATIONS

11.1 Reasonable Accommodation for Disability

The City is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of the City to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

The Americans with Disabilities Act (ADA) and the Minnesota Human Rights Act both require that a disabled applicant must be given reasonable accommodation to take an employment test. Reasonable accommodation for a disabled person usually means a modification or adjustment to the testing process that allows an applicant with a disability to be considered for the position.

Applicants for job vacancies should be asked to let the City know about any reasonable accommodation that may be needed in order to take the test within a reasonable time period before it is given.

11.1.1 Definitions

Disability: For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activities.

Reasonable accommodation: A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applied to three aspects of employment:

- A. To assure equal opportunity in the employment process;

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- B. To enable a qualified individual with a disability to perform the essential functions of a job; and
- C. To enable an employee with a disability to enjoy equal benefits and privileges of employment.

Undue hardship: An undue hardship is an action that is unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the City.

11.1.2 Procedures

Current employees and employees seeking promotion:

- A. The City will inform all employees that this accommodation policy can be made available in accessible formats.
- B. The employee shall inform their immediate supervisor or the City Administrator of the need for an accommodation.
- C. The City Administrator may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files. No one will be told or have access to medical information unless the disability might require emergency treatment.
- D. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:
 - 1. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
 - 2. Determine the precise job-related limitation.
 - 3. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
 - 4. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the City is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
 - 5. The City Administrator or his/her designee will work with the employee to obtain technical assistance, as needed.
 - 6. The City Administrator will provide an update or a decision to the employee within a reasonable amount of time 10 working days.

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7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the City, the employee and the City Council or its designee(s) shall work together to determine whether reassignment may be an appropriate accommodation.

Job Applicants:

- A. The job applicant shall inform the City Administrator of the need for an accommodation and they will discuss the needed accommodation and possible alternatives with the applicant.
- B. The City Administrator will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

Procedure for determining undue hardship:

- A. The employee will meet with the City Administrator to discuss the requested accommodation.
- B. The City Council or its designee(s) will review undue hardships by considering the following:
 1. The nature and cost of the accommodation in relation to the size, the financial resources, and the nature and structure of the operation; and
 2. The impact of the accommodation on the nature or operation of the City.
 3. The City Council or its designee(s) will provide a decision to the employee.

11.1.3 Appeals

Employees or applicants who are dissatisfied with the decision(s) pertaining to his/her accommodation request may initiate a grievance under the grievance procedure in these policies. If the individual believes the decision is based on discriminatory reasons, then they may address their concerns internally through the city's internal workplace issues resolution policy in these policies.

11.1.4 Supported Work

The City will review vacant positions and assess the current workload and needs of the city to determine if job tasks might be performed by a supported employment worker(s).

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11.2 Reasonable Accommodations for Health Conditions Relating to Pregnancy

The City will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth.

- more frequent restroom, food, and water breaks;
- seating; and
- limits on lifting over 20 pounds and/or temporary transfer to a less strenuous or hazardous position, should one be available.

Unless such accommodations impose an undue hardship on the city, the city will engage in an interactive process with respect to an employee's request for a reasonable accommodation.

11.3 Reasonable Accommodation for Religion

The City respects the religious beliefs and practices of all employees and will make, upon request, an accommodation for such observances when a reasonable accommodation is available that does not create an undue hardship on the city's business.

An employee whose religious beliefs or practices conflicts with his/her job, work schedule, or with the city's policy or practice on dress and appearance, or with other aspects of employment and who seeks a religious accommodation must submit a written request for the accommodation to his/her immediate supervisor. The written request will include the type of religious conflict that exists and the employee's suggested accommodation.

The immediate supervisor will evaluate the request considering whether a work conflict exists due to a sincerely held religious belief or practice and whether an accommodation is available which is reasonable and which would not create an undue hardship on the city's business. An accommodation may be a change in job, using paid leave or leave without pay, allowing an exception to the dress and appearance code which does not impact safety or uniform requirements, or for other aspects of employment. Depending on the type of conflict and suggested accommodation, the supervisor may confer with his/her supervisor or City Council or its designee(s).

The supervisor and employee will meet to discuss the request and decision on an accommodation. If the employee accepts the proposed religious accommodation, the immediate supervisor will implement the decision. If the employee rejects the proposed accommodation, he/she may appeal following the city's general grievance policy and procedure.

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11.4 Modified Duty Assignment

This policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. A modified assignment is evaluated by the City Council or its designee(s) on a case-by-case basis. This policy does not guarantee any modifications to an assignment.

Such assignments are for short-term, temporary disability-type purposes; assignment is at the discretion of the City Council or its designee(s). The City Council or its designee(s) reserves the right to determine when and if work will be assigned.

When an employee is unable to perform the essential requirements of his/her job due to a temporary disability, he/she will notify the supervisor in writing as to the nature and extent of the disability and the reason why he/she is unable to perform the essential functions, duties, and requirements of the position. This notice must be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability. The notice must include the expected time frame regarding return to work with no restrictions, meeting all essential requirements and functions of the City's job description along with a written request for a modified assignment. Upon receipt of the written request, the supervisor is to forward a copy of the report to the City Council or its designee(s).

The City may require a medical exam conducted by a physician selected by the City to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions. It is at the discretion of the City Council or its designee(s) whether or not to assign work to the employee. Although this policy is handled on a case-by-case basis, such assignments will not generally be approved beyond six months.

If the City offers a modified assignment to an employee who is out on workers' compensation leave, the employee may be subject to penalties if he/she refuses such work.

The circumstances of each disabled employee performing work will be reviewed regularly. Any modified work assignment may be discontinued at any time.

Title: Respectful Workplace Policy

Effective [date]

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SECTION 12. RESPECTFUL WORKPLACE POLICY

The intent of this policy is to provide general guidelines about the conduct that is and is not appropriate in the workplace. The City acknowledges that this policy cannot possibly predict all situations that might arise, and also recognizes that some employees are exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

12.1 Applicability

Maintaining a respectful work environment is a shared responsibility. This policy is applicable to all City personnel including regular and temporary employees, volunteers, firefighters, and City Council members.

12.2 Abusive Customer Behavior

While the City has a strong commitment to customer service, the City does not expect that employees accept verbal abuse from any customer. An employee may request that a supervisor intervene when a customer is abusive, or they may defuse the situation themselves, including ending the contact.

If there is a concern over the possibility of physical violence, a supervisor shall be contacted immediately. When extreme conditions dictate, 911 may be called. Employees shall leave the area immediately when violence is imminent unless their duties require them to remain. Employees must notify their supervisor about the incident as soon as possible.

12.3 Types of Disrespectful Behavior

The following types of behaviors cause a disruption in the workplace and are, in many instances, unlawful:

12.3.1 Violent behavior:

Violent behavior includes the use of physical force, harassment, bullying or intimidation.

12.3.2 Discriminatory behavior:

Discriminatory behavior includes inappropriate remarks about or conduct related to a person's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance, veteran status, membership on a local human rights

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commission, pregnancy, childbirth, or related medication conditions, reserve or National Guard status, military service, citizenship, or any other basis protected by law, except where there is a bona fide occupational qualification.

12.3.3 Offensive behavior:

Offensive behavior may include such actions as: rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disparaging language, or any other behavior regarded as offensive to a reasonable person based upon violent or discriminatory behavior as listed above. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction.

Although the standard for how employees treat each other and the general public will be the same throughout the City, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee shall request clarification from their supervisor or the City Administrator.

12.3.4 Sexual harassment:

Sexual harassment can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment includes, but is not limited to, the following:

- Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written abuse, jokes, or comments that are sexually-oriented and considered unacceptable by another individual. This includes comments about

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an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others.

- Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

12.4 Employee Response to Disrespectful Workplace Behavior

Employees who believe that disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. However, if the allegations involve violent behavior, sexual harassment, or discriminatory behavior, then the employee is responsible for taking one of the actions below. If employees see or overhear a violation of this policy, they are encouraged to follow the steps below.

Step 1(a). Politely, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

Step 1(b). If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor or City Administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter no later than ten business days after your report.

Step 1(c). In the case of violent behavior, all employees are required to report the incident immediately to their supervisor, City Administrator, or Police Department. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it within two business days to a supervisor or the City Administrator.

Step 2. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the City Administrator or the mayor.

12.5 Supervisor's Response to Allegations of Disrespectful Workplace Behavior

Employees who have a complaint of disrespectful workplace behavior will be taken seriously. In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations within two business days to the City Administrator, who will determine whether an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by

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the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

- Step 1.** If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of his/her actions and requiring that the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.
- Step 2.** If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. The person being interviewed may have someone of his/her own choosing present during the interview. The investigator will obtain the following description of the incident, including date, time and place:
- Corroborating evidence.
 - A list of witnesses.
 - Identification of the offender.
- Step 3.** The supervisor must notify the City Administrator about the allegations.
- Step 4.** As soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations. The alleged violator will have the opportunity to answer questions and respond to the allegations.
- Step 5.** After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.
- Step 6.** The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable.

The City is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

12.6 Special Reporting Requirements

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the City Administrator who will assume the responsibility for investigation and discipline.

If the City Administrator is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the City attorney who will confer with the mayor and City Council regarding appropriate investigation and action.

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If a council member is perceived to be the cause of a disrespectful workplace behavior incident involving City personnel, the report will be made to the City Administrator and referred to the City attorney who will undertake the necessary investigation. The City attorney will report his/her findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the City Administrator may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens.

12.7 Confidentiality

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s).

12.8 Retaliation

Consistent with the terms of applicable statutes and City personnel policies, the City may discipline any individual who retaliates against any person who reports alleged violations of this policy. The City may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

12.9 Possession and Use of Dangerous Weapons

Possession or use of a dangerous weapon is prohibited on City property, in City vehicles, or in any personal vehicle, which is being used for City business. This includes employees with valid permits to carry firearms.

The following exceptions to the dangerous weapons prohibition are as follows:

- Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on City property.
- A person who is showing or transferring the weapon or firearm to a police officer as part of an investigation.
- Police officers and employees who are in possession of a weapon or firearm in the scope of their official duties.

Title: Separation from Service

Effective [date]

Effective Date(s) of

SECTION 13. SEPARATION FROM SERVICE

Employees wishing to leave the City service in good standing must provide a written resignation notice to their supervisor, at least ten (10) working days before leaving. Exempt employees must give thirty (30) calendar days' notice. The written resignation must state the effective date of the employee's resignation.

Unauthorized absences from work for a period of three consecutive work days may be considered resignation without proper notice.

Failure to comply with this procedure may be cause for denying the employee's severance separation pay and any future employment with the City.

13.1 Separation Pay

Employees who leave the employ of the City in good standing by retirement or resignation will receive pay for 100% of unused accrued PTO, not to exceed twice the employee's maximum annual accrual rate. All employees who leave employment with the City will receive 100% of accumulated, unused compensatory time.

Title: Discipline

Effective [date]

Effective Date(s) of

SECTION 14. DISCIPLINE

14.1 General Policy

Supervisors are responsible for maintaining compliance with City standards of employee conduct. The objective of this policy is to establish a standard disciplinary process for employees of the City of Plainview. City employees will be subject to disciplinary action for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable City policies.

Discipline will be administered in a non-discriminatory manner. An employee who believes that discipline applied was either unjust or disproportionate to the offense committed may pursue a remedy through the grievance procedures established in these City's personnel policies. The supervisor and/or the City Administrator will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

14.2 No Contract Language Established

This policy is not to be construed as contractual terms and is intended to serve only as a guide for employment discipline.

14.3 Process

The City may elect to use progressive discipline, a system of escalating responses intended to correct the negative behavior rather than to punish the employee. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any City employee has a contractual right or guarantee (also known as a property right) to the job he/she performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

The following are descriptions of the types of disciplinary actions:

- Oral reprimand;
- Written Reprimand;
- Suspension With or Without Pay;
- Demotion and/or Transfer;
- ~~Salary-Wage~~ Change; and
- Discharge

Title: Grievance Procedure

Effective [date]

Effective Date(s) of

SECTION 15. GRIEVANCE PROCEDURE

15.1 Grievance Procedural, Generally

Any dispute between an employee and the City relative to the application, meaning or interpretation of these personnel policies will be settled in the following manner:

Step 1: The employee must present the grievance in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of the personnel policies allegedly violated and the remedy requested, to the proper supervisor within ten (10) working days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within five (5) working days.

Step 2: If the grievance has not been settled in accordance with Step 1, it must be presented in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of the Personnel Policies allegedly violated, and the remedy requested, by the employee to the City Administrator within five (5) working days after the supervisor's response is due. The City Administrator or his/her designee will respond to the employee in writing within five (5) working days. The decision of the City Administrator is final for all disputes with exception of those specific components in a performance evaluation subject to a challenge through the Minnesota Department of Administration.

15.2 Waiver

If a grievance is not presented within the time limits set forth above, it will be considered "waived." If a grievance is not appealed to the next step in the specified time limit or any agreed extension thereof, it will be considered settled on the basis of the City's last answer. If the City does not answer a grievance or an appeal within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the City and the employee without prejudice to either party.

The following actions are not grievable:

- While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable, other performance evaluation data, including subjective assessments, are not;
- Pay increases or lack thereof; and
- Merit pay awards.

The above list is not meant to be all inclusive or exhaustive.

Title: Employee Education and
Training

Effective [date]
Effective Date(s) of

SECTION 16. EMPLOYEE EDUCATION AND TRAINING

The City promotes staff development as an essential, ongoing function needed to maintain and improve cost effective quality service to residents. The purposes for staff development are to ensure that employees develop and maintain the knowledge and skills necessary for effective job performance and to provide employees with an opportunity for job enrichment and mobility.

16.1 Policy

The City will pay for the costs of an employee's participation in training and attendance at professional conferences, provided that attendance is approved in advance under the following criteria and procedures articulated in this section.

16.2 Job-Related Training and Conferences

The subject matter of the training session or conference is directly job-related and relevant to the performance of the employee's work responsibilities. Responsibilities outlined in the job description, annual work program requirements and training goals and objectives that have been developed for the employee will be considered in determining if the request is job-related. Continuing Education Units (CEUs) or similar courses taken by an employee in order to maintain licensing or other professional accreditation will ~~not~~ be eligible for payment under this policy if the subject matter relates directly to the employee's duties.

The supervisor and the City Administrator are responsible for determining job-relatedness and approving or disapproving training and conference attendance.

16.3 Request for Participation in Training and Conferences

The request for participation in a training session or conference must be submitted in writing to the employee's supervisor on the appropriate form. All requests must include an estimate of the total cost (training session, travel, meals, etc.) and a statement of how the education or training is related to the performance of the employee's work responsibilities with the City.

Requests falling within the approved budget may be approved by the employee's supervisor or the City Administrator. Requests exceeding the approved budget must be approved by the City Council. Documentation approving conference or training attendance will be provided to the employee with a copy placed in the employee's personnel file.

Payment information such as invoices, billing statements, etc., regarding the conference or training shall be forwarded to accounting for prompt payment.

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16.4 Out of State Travel

Attendance at training or conferences out of state is approved only if the training or conference is not available locally. All requests for out of state travel are reviewed for approval/disapproval by the City Council.

16.5 Compensation for Travel and Training Time

Time spent traveling to and from, as well as time spent attending a training session or conference, will be compensated in accordance with the federal Fair Labor Standards Act.

Travel and other related training expenses will be reimbursed subject to the employee providing necessary receipts and appropriate documentation.

16.6 Memberships and Dues

The purpose of memberships to various professional organizations must be directly related to the betterment of the services of the City. Normally, one City membership per agency, as determined by the City Administrator is allowed, providing funds are available.

Upon separation of employment, individual memberships remain with the City and are transferred to another employee by the supervisor.

16.7 Travel and Meal Allowance

If employees are required to travel outside of the area in performance of their duties as a City employee, they will receive reimbursement of expenses for meals, lodging, and necessary expenses incurred. However, the City will not reimburse employees for meals connected with training or meetings within City limits, unless the training or meeting is held as a breakfast, lunch or dinner meeting.

Employees who find it necessary to use their private automobiles for City travel and who do not receive a car allowance will be reimbursed at the prevailing mileage rate as established by the IRS.

Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. Meal expenses will be allowed per day as follows:

- \$10 for Breakfast
- \$15 for Lunch
- \$25 for Dinner

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~~Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. (duplicate)~~

A full reimbursement, over the maximum defined, may be authorized if a lower cost meal is not available when attending banquets, training sessions, or meetings of professional organizations.

Reimbursement requests shall be made on appropriate forms as provided by the Finance Director. Receipts for all purchases shall be attached. Purchases without receipts must be under \$5 and must be approved by the City Administrator.

Title: Outside Employment

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SECTION 17. OUTSIDE EMPLOYMENT

The potential for conflicts of interest is lessened when individuals employed by the City of Plainview regard the City as their primary employment responsibility. All outside employment is to be reported to the employee's immediate supervisor. If a potential conflict exists based on this policy or any other consideration, the supervisor will consult with the City Administrator.

Any City employee accepting employment in an outside position that is determined by the City Administrator to be in conflict with the employee's City job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

For the purpose of this policy, outside employment refers to any non-City employment or consulting work for which an employee receives compensation, except for compensation received in conjunction with military service or holding a political office or an appointment to a government board or commission that is compatible with City employment. The following is to be considered when determining if outside employment is acceptable:

- Outside employment must not interfere with a full-time employee's availability during the City's regular hours of operation or with a part-time employee's regular work schedule.
- Outside employment must not interfere with the employee's ability to fulfill the essential requirements of his/her position.
- The employee must not use City equipment, resources or staff in the course of the outside employment.
- The employee must not violate any City personnel policies as a result of outside employment.
- The employee must not receive compensation from another individual or employer for services performed during hours for which he/she is also being compensated by the City. Work performed for others while on approved vacation or compensatory time is not a violation of policy unless that work creates the appearance of a conflict of interest.
- Departments may establish more specific policies as appropriate, subject to the approval of the City Administrator.

City employees are not permitted to accept outside employment that creates either the appearance of or the potential for a conflict with the development, administration or implementation of policies, programs, services or any other operational aspect of the City.

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SECTION 18. DRUG FREE WORKPLACE

(See email from Brandon Fitzsimmons)

In accordance with federal law, the City of Plainview has adopted the following policy on drugs in the workplace:

1. Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the City's intent and obligation to provide a drug-free, safe and secure work environment.
2. Employees are prohibited from being under the influence of illegal drugs or alcohol while on duty for the City.
3. The unlawful manufacture, distribution, possession, or use of a controlled substance on City property or while conducting City business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.
4. The City recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate.
5. Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting City business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

Employees should refer also to the CDL Drug & Alcohol Testing Policy and the Non-CDL Drug & Alcohol Testing Policy.

18.1 Purpose

- ~~B. Abuse of drugs and alcohol is a nationwide problem and it affects persons of every age, race, sex and ethnic group. It poses risks to the health, safety and security of employees of the City and to the public. The City is committed to providing a drug-free, safe and secure work environment and to fostering the well being and health of its employees. That commitment is jeopardized when a City employee illegally uses drugs on or off the job, comes to work under the influence, possesses, manufactures, distributes or sells drugs in the workplace, or abuses alcohol on the job. To reduce those risks, the City is adopting this policy concerning substance (drug and alcohol) use and abuse affecting the workplace. This~~

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~~policy establishes standards concerning drug and alcohol use, which all employees must meet. It also establishes a testing procedure to ensure that those standards are met.~~

~~C. This policy on substance use/abuse and drug and alcohol testing of employees and job applicants is established in accordance with Minnesota's 1987 Drug and Alcohol Testing in the Workplace Act (DATWA) as identified in Minnesota Statutes 181.950 through 181.957 and the Federal Drug Free Workplace Act of 1988.~~

~~D. For purposes of this article, the following definitions will apply:~~

- ~~1) Accident—An occurrence which results in (a) a fatality; (b) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene; or (c) one or more motor vehicles incurring disabling damage, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.~~
- ~~2) Alcohol—ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.~~
- ~~3) Confirmatory Test or Confirmatory Retest—A drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Minnesota Statute 181.953, Subd. 1, as being reliable for providing specific data as to drugs, alcohol, or their metabolites detected in an initial screening test to ensure accuracy.~~
- ~~4) Commissioner—the Commissioner of Minnesota Department of Health.~~
- ~~5) Designated Employer Representative (DER)—Individual identified by employer as able to receive communications and test results from service agents and who is authorized to take immediate action to remove employees from safety sensitive duties and to make decisions in the testing and evaluation process. The individual shall be an employee of the City.~~
- ~~6) Disciplinary Action—Any of the actions defined in these policies.~~
- ~~7) Drug—A controlled substance as defined in Minnesota Statute 152.01, Subd. 4, or 49 C.F.R. Part 40.~~
- ~~8) Drug and/or Alcohol Test (or Testing)—Analysis of a body component sample according to the standards established under one of the programs listed in Minnesota Statute 181.953, Subd. 1 including blood, breath and urine, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.~~
- ~~9) Employee—A person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for the City.~~
- ~~10) Employer—means the City of Plainview acting through its City Administrator or a designee of the City Administrator.~~
- ~~11) Initial Screening Test—A drug or alcohol test which uses a method of analysis under one of the programs listed in Minnesota Statute 181.953, Subd. 1, as being capable of detecting the presumptive presence of a drug, drug metabolite or alcohol in a sample.~~
- ~~12) Job Applicant—A person, independent contractor, or person working for an~~

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- ~~independent contractor, who applies to become an employee of the City, including a person who has received a job offer made contingent upon the person passing drug or alcohol testing.~~
- ~~13) Medical Review Officer (MRO) — A licensed physician responsible for receiving laboratory results generated by a drug testing program. This physician has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate confirmed positive test results together with medical history and any other relevant biomedical information.~~
- ~~14) Positive Test Result — A finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minnesota Statute 191.953, Subd. 1; a finding of the presence of alcohol in the sample tested of more than an alcohol concentration of .02 percent; or the presence of a drug at or above the following levels will be considered to be a positive test result:~~

	Initial Screening	Confirmatory Test
Amphetamines	1,000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Cocaine Metabolite	300 ng/ml	150 ng/ml
Opiates	300 ng/ml	300 ng/ml
PCP (Phencyclidine)	25 ng/ml	25 ng/ml
THC Metabolite (Marijuana)	100 ng/ml	15 ng/ml

- ~~Positive test results for drugs other than those listed above shall be defined by the laboratory.~~
- ~~15) Random Selection — A mechanism for selection of employees for testing where each employee has an equal chance of being tested each time selections are made.~~
- ~~16) Reasonable Suspicion — A basis for forming a belief based upon specific facts and rational inferences drawn from those facts.~~
- ~~17) Refusal to submit — When an employee (a) fails to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement for breath testing; (b) fails to provide adequate urine for controlled substance testing without a valid medical explanation after receiving notice of the requirement for urine testing; or (c) engages in conduct that clearly obstructs the testing process.~~
- ~~18) Safety sensitive Position — A job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage could threaten the health or safety of any person.~~
- ~~19) Under the influence — Having the presence of a drug or alcohol at or above the level of a positive test result.~~

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18.2—Policies

- ~~A. It is a violation of City policy for any employee to use, possess, manufacture, distribute, sell, trade, offer for sale, offer to buy illegal drugs or otherwise engage in the illegal use of drugs on city property or while conducting city business or while off the job.~~
- ~~B. It is a violation of City policy for any employee to report to work while possessing in or on their person, blood, or urine illegal drugs in any detectable amount.~~
- ~~C. It is a violation of City policy for an employee to be under the influence of or impaired by drugs and/or alcohol while the employee is working or while the employee is on the employer's premises or operating the employer's vehicle, machinery, or equipment, except to the extent authorized by a valid medical prescription.~~
- ~~D. It is a violation of City policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.~~
- ~~E. Refusal to test is a violation of the policy. If an employee refuses to undergo requested or required testing, no such test will be given. However, the employee is then subject to disciplinary action, up to and including termination pursuant to this policy. If an employee or job applicant refuses to undergo drug or alcohol testing of a blood sample upon religious grounds, they will not be deemed to have refused testing unless they also refuse to undergo testing of a urine sample.~~
- ~~F. As a condition of employment, employees must abide by the terms of this policy and must notify the City in writing of any conviction under a criminal drug statute for violations occurring in the workplace (on or off premises) no later than five (5) calendar days after such conviction, as required by the Drug-Free Workplace Act of 1988. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.~~
- ~~G. Employee Assistance—Employees needing help in dealing with drug and/or alcohol problems are encouraged to utilize the City's Employee Assistance Program or possibly their health insurance plan. The City also offers resource information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs.~~
- ~~H. Data Privacy—The Employer will not disclose the test result reports or other information acquired in the drug or alcohol testing process to another employer or to a third party, group or individual, governmental agency, or private organization without the written consent of~~

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~~the person tested, unless required by law or court order.~~

~~I. Pre-Employment Drug Testing~~

- ~~1) Job applicants may be required to undergo testing for the presence of illegal drugs as a condition of employment. If an applicant refuses to submit to drug and alcohol testing, no such test will be given, and the job applicant will be deemed to have withdrawn the application for employment. Any applicant with a confirmed positive test will be denied employment. The employee will have the right to a confirmatory retest at the employee's own expense if requested in writing within 5 working days after notice of the confirmatory test result.~~
- ~~2) Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by the City and, by signing a consent form, will release the City from liability.~~
- ~~3) If the physician, official, or lab personnel has reasonable suspicion to believe that the job applicant has tampered with the specimen, the applicant will not be considered for employment.~~
- ~~4) The City will not discriminate against applicants for employment because of a past history of drug abuse. It is the current abuse of drugs, preventing employees from performing their job properly, that the City will not tolerate.~~
- ~~5) Individuals who have failed a pre-employment test may initiate another inquiry with the City after a period of no less than six (6) months; but they must present themselves drug free as demonstrated by urinalysis or other test selected by the City.~~

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

- ~~1) Reasonable suspicion testing (Minn. Stat. § 181.951, subd. 5)—The employer may request or require an employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs and/or alcohol. "Reasonable suspicion" is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:~~
 - ~~a) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse while the employee is working or while the employee is on the employer's premises or operating the employer's vehicles, machinery, or~~

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- equipment;
- ~~b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;~~
 - ~~c) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;~~
 - ~~d) Information that an employee has caused or contributed to an accident while at work or was operating or helping to operate machinery, equipment, or vehicle involved in a work-related accident; or~~
 - ~~e) Information that an employee has sustained personal injury or has caused another person personal injury as that term is defined in Minnesota Statutes 176.01 1, Subd. 16; or~~
 - ~~f) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or drug paraphernalia while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.~~
- ~~2) Post Accident Testing—When employees have caused or contributed to an on-the-job injury that resulted in a loss of work time, which means any period of time during which an employee stops performing the normal duties of employment and/or leaves the place of employment to seek care from a licensed medical provider. The City may also send an employee for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs.~~
- ~~3) Follow up Testing—As part of a follow up program to treatment for drug abuse when an employee has voluntarily entered a rehabilitation program because of a positive confirmed test result. The frequency of such testing shall be a minimum of at least once a year for a two-year period after completion of the rehabilitation program. Advance notice of testing shall not be given to the employee.~~
- ~~4) Return to Duty Testing—When a substance abuse test is conducted as part of a routinely scheduled employee fitness for duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group. These exams will be performed only once annually and the employee has to be given at least 2 weeks' notice that a drug or alcohol test may be requested or required as part of the physical examination (Minn. Stat. § 181.951, subd. 3).~~
- ~~5) Other Testing: The Employer may permit an Employee who has requested a drug and alcohol test to undergo testing in accordance with the procedures established by this policy.~~

~~K. Drug and Alcohol Use and/or Abuse~~

- ~~1) The consumption or possession of illegal drugs or alcoholic beverages on City premises is prohibited. City sponsored activities which may include the serving of alcoholic beverages are not included in this provision. An employee whose normal faculties are~~

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~~impaired due to the consumption of drugs or alcohol, or whose blood alcohol level tests positive while on duty, shall be guilty of misconduct and will be required to participate in either a drug or alcohol counseling or rehabilitation program at the employee's own expense or possibly under an employee benefit plan. Failure to submit to a substance abuse test or attend counseling or rehabilitation shall be considered misconduct and the employee is subject to disciplinary action, up to and including termination.~~

- ~~2) The first time an employee tests positive for drugs or alcohol they will be given the chance to participate in treatment unless:
 - ~~a. The City has given the employee an opportunity to participate in a drug or alcohol counseling or rehabilitation program; and~~
 - ~~b. The employee has refused to timely initiate, participate or has failed to successfully complete the program within a reasonable time.~~~~
- ~~3) The second time an employee tests positive they may be subject to discipline or termination without being provided the opportunity for treatment.~~
- ~~4) If an employee has a positive test result, the City may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the employer believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.~~
- ~~5) It is the responsibility of the supervisors to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug or alcohol problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.~~
- ~~6) The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive, and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the City.~~

~~L. Policy Modification—The City retains the right to modify this policy to meet its needs and/or to conform to changes in regulations and/or law.~~

18.3—Procedures

- ~~(A) The City shall use the services of a testing laboratory that meets one of the following criteria for drug testing:~~
- ~~1) Is certified by the National Institute on Drug Abuse as meeting the mandatory guidelines published at 54 Federal Register 11970 to 11989, April 11, 1988; or~~

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- ~~2) Is accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois 60093-2750, under the forensic urine drug testing laboratory program; or~~
- ~~3) Is licensed by the Commissioner or qualifying under the transitional laboratory requirements set forth in Minnesota Statutes.~~
- ~~(B) For alcohol testing, the laboratory must be accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois 60093-2750, in the laboratory accreditation program.~~
- ~~(C) The City declares that all Police, Fire and Public Works Department positions, including but not limited to union, non-union, supervisory, and management positions, are hereby designated as "safety sensitive" positions.~~
- ~~(D) This article shall be distributed to all City employees as part of the City Personnel Policies and receipt shall be acknowledged in writing by signing the Acknowledgement of Personnel Policies.~~
- ~~(E) Administrative Responsibility—Department heads shall be responsible for implementing this article.~~
- ~~(F) An employee reporting to work visibly impaired will be deemed unable to properly perform required duties and will not be allowed to work. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative depending on the determination of the observed impairment and accompanied by the supervisor or another employee, if necessary. A drug test may be in order. An impaired employee will not be allowed to drive.~~
- ~~(G) Testing Procedures~~
- ~~1) Drug Testing Consent and Release Form—Before requesting an Employee or job applicant to undergo drug or alcohol testing, the Employer will provide the individual with a form on which to (1) acknowledge that the individual has received a copy of, read, and understood this policy, (2) indicate any over-the-counter or prescription medications that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result, and (3) indicate consent to undergo drug and alcohol testing.~~
- ~~2) Test Sample—The test sample will be obtained in a private setting by a testing laboratory assigned by the City, and the procedures for taking the sample will ensure privacy to employees and job applicants to the extent practicable, consistent with preventing tampering with the sample, and may include a witness, and will conform with applicable rules of the Commissioner. No test sample will be taken on the employer's premises and the test sample will not be taken by an employee of the City.~~
- ~~3) Identification of Samples—Each sample will be sealed into a suitable container free of any contamination that could affect test results. The sample will be identified for~~

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- processing by the licensed testing laboratory.
- ~~4) Chain of Custody — A written record of the chain of custody of the sample which conforms to the rules adopted by the Commissioner will be maintained. In addition, the written record will include a signature of each person accepting transfer of the sample and the date and time of the transfer.~~
 - ~~5) Methods of Analysis — The testing laboratory will use methods of analysis and procedures to ensure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests.~~
 - ~~6) Retention and Storage — Retention and storage procedures will comply with the rules adopted by the Commissioner, and all samples that produced a positive test result will be retained and properly stored for at least six months.~~
 - ~~7) Test Report — The testing laboratory will prepare a written report indicating the drugs, alcohol, or their metabolites tested for, the types of tests conducted, and whether the test produced negative or positive test results, and the testing laboratory will disclose that report to the Employer within three (3) working days after obtaining the final test results.~~
 - ~~8) Notice of Test Results — Within three (3) working days after receipt of the test result report from the testing laboratory, the Employer will inform an Employee or job applicant who has undergone drug or alcohol testing in writing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test. The Employer will also inform an Employee or job applicant of the following rights pursuant to M.S.A. 181.951:~~
 - ~~a) The right to request and receive from the Employer a copy of the test result report.~~
 - ~~b) The right to request within five (5) working days after notice of a positive test result, a confirmatory retest of the original sample at the Employee's or job applicant's own expense. If a confirmatory retest is conducted in accordance with the rules adopted by the Commissioner and the confirmatory retest does not result in a positive test result, the City will reimburse the Employee or job applicant the actual cost of the confirmatory retest in an amount not to exceed \$200.~~
 - ~~c) The right to submit information to the Employer within three (3) working days after a notice of a positive test result to explain that result.~~
 - ~~d) Employees and job applicants will be given the opportunity to explain or contest a confirmed positive result with the Medical Review Officer (MRO) within five (5) working days after being notified by the MRO of the test result.~~
 - ~~e) The right of an Employee for whom a positive test result on a confirmatory test was the first such result on a drug or alcohol test requested by the Employer will not be discharged unless the Employer has first given the Employee an opportunity to participate in either a drug or alcohol counseling~~

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~~or rehabilitation program. Participation in a counseling or rehabilitation program will be at the Employee's own expense pursuant to coverage under an Employee's benefit plan. The Employer may determine which type of program is more appropriate for the Employee after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency. The Employee may be discharged if she/he has either refused to participate in the counseling or rehabilitation program, or has failed to successfully complete the program. Withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program will be considered evidence that the Employee failed to successfully complete the program.~~

- ~~f) The right to be reinstated with back pay if the outcome of the confirmatory or requested confirmatory retest is negative.~~
- ~~g) The right not to be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the Employer concerning the reliability of, or explanation for, a positive test result unless the Employee or job applicant was under an affirmative duty to provide the information before, upon, or after hire.~~
- ~~h) The right to access the information relating to their positive test result reports and other information acquired in the drug and alcohol testing process including conclusions drawn from and actions taken based on the reports or other acquired information.~~
- ~~i) The right of an Employee or a job applicant, who has received a job offer made contingent on the applicant passing drug and alcohol testing, to not have the offer withdrawn based on a positive test result from an initial screening test that has not been verified by a confirmatory test.~~

~~(H) Appeals Procedure~~

- ~~1) Concerning disciplinary actions taken pursuant to this drug and alcohol testing policy, available appeal procedures are as follows:~~
 - ~~a) Temporary Employees as defined in the City of Bemidji Personnel Policy will have no right of appeal.~~
 - ~~b) Non-Veterans on Probation: An Employee who has not completed the probationary period and who is not a veteran has no right of appeal.~~
 - ~~c) Non-Veterans After Probation: A regular Employee who has completed the probationary period and who is not a veteran has the right to appeal within fifteen (15) days.~~
 - ~~d) Veterans: An Employee who is a veteran has the right to appeal within sixty (60) calendar days of the action. An Employee who is a veteran may have additional rights under the Veterans Preference Act, Minn. Stat. 197.46.~~

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- ~~2) All notices of appeal not covered under a Collective Bargaining Agreement must be submitted in writing to the City Administrator, who will schedule the appropriate hearing.~~
 - ~~3) An employee who is covered by a Collective Bargaining Agreement may elect to seek relief under the terms of that Policy by contacting the appropriate Union and initiating grievance procedures.~~

~~18.4 Federal Motor Carrier Safety Administration (FMCSA) & Department of Transportation Requirements~~

- ~~(A) Purpose The overall goal of this policy is to promote a drug and alcohol free transportation environment and to reduce accidents, injuries, and fatalities. It is policy of the City that its drivers are free of substance/drug and alcohol abuse and the use of illegal drugs by drivers is prohibited. Therefore, drivers shall not use alcohol or engage in prohibited conduct as defined herein. Furthermore, the Omnibus Transportation Employee Testing Act of 1991 requires that all employees whose job duties include operating a commercial motor vehicle and who are required to hold a commercial driver's license shall be subject to drug and alcohol testing.~~
- ~~(B) Definitions Refer to the Code of Federal Regulations (CFR) Part 382 for complete definitions in addition to those contained in Section 201.1001 (C) and the following:~~
 - ~~1) Commercial Motor Vehicle (CMV): A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle meets any one of the following criteria—
 - ~~a) Has a gross combination weight rate of greater than 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds or has a gross vehicle weight rating of greater than 26,001 pounds; or~~
 - ~~b) Is designed to transport 16 or more passengers, including the driver; or~~
 - ~~c) Is of any size and used in the transportation of hazardous materials {see 49 U.S.C. 5103(b)} and which requires the motor vehicle to be placarded (see 49 CFR part 172, subpart F).~~~~
 - ~~2) Driver: Any person who operates a commercial motor vehicle. Includes, but is not limited to; full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent owner-operator contractors.~~
 - ~~3) Safety Sensitive Function: All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety sensitive functions shall include:~~

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- ~~a) All time at an employer terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;~~
- ~~b) All time inspecting equipment as required by §§392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;~~
- ~~c) All time spent at the driving controls of a commercial motor vehicle in operation;~~
- ~~d) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of §393.76 of this subchapter);~~
- ~~e) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and~~
- ~~f) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.~~

~~(C) Conduct~~

- ~~1) Alcohol:~~
 - ~~a) Drivers shall not report to, or remain on duty, while having an alcohol concentration level of 0.04 or greater.~~
 - ~~b) Drivers shall not use or possess alcohol while performing safety-sensitive functions.~~
 - ~~c) Drivers shall not use alcohol four (4) hours prior to performing safety-sensitive functions.~~
 - ~~d) Drivers shall not use alcohol for eight (8) hours following an accident or until the driver undergoes a post-accident alcohol test, whichever occurs first.~~
- ~~2) Controlled Substances:~~
 - ~~a) Drivers shall not report to, or remain on duty, when the driver uses any controlled substance, except when use is pursuant to the instruction of a physician who has advised the driver that the substances will not adversely affect the driver's ability to safely operate a motor vehicle.~~
 - ~~b) Drivers shall not report, remain on duty, or perform safety-sensitive functions if they test positive, have adulterated, or substituted their specimen for controlled substances.~~
- ~~3) If a driver engages in prohibited conduct, the driver is not qualified to drive a commercial motor vehicle and shall be immediately removed from service. The City may, in its discretion and at the request of the driver, keep the driver's position open while such driver attempts to become re-qualified. The City may also take disciplinary action against the employee, up to and including termination.~~

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~~(D) Types of Tests The Department of Transportation (DOT) requires six circumstances for drug and alcohol tests. They are (1) pre-employment, (2) post-accident, (3) reasonable suspicion, (4) return-to-duty, (5) follow-up and (6) random.~~

~~1) Pre-Employment Testing Applicants for driving positions shall submit to urine drug tests if a job offer is made. The job offer is contingent upon a negative test report and the applicant's written agreement authorizing former employers to release all information on the applicant's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two (2) years. An applicant may not be required to submit to a urine drug test if:~~

- ~~a) The City can verify that the driver has participated in a valid drug testing program within the preceding 30 days; or~~
- ~~b) While participating in that program, the driver was either tested within the past 6 months or participated in a random selection program for the previous 12 months. The City shall also verify that no prior employer of the driver has~~

~~records indicating a violation of any DOT rule pertaining to controlled substance use within the previous 6 months.~~

~~2) Post Accident Testing~~

- ~~a) When an accident involves a human fatality, surviving drivers shall submit to post-accident drug and alcohol testing. When a driver is involved in an accident that requires immediate medical treatment away from the scene or disabling damage to any motor vehicle requiring tow away or is issued a citation, the driver shall submit to a drug and alcohol test.~~
- ~~b) The DOT requires that any time a post-accident drug or alcohol test is required, that it be performed as soon as possible following the accident. If no alcohol collection can be made within 8 hours, attempts to collect an alcohol sample shall cease. If no urine collection can be obtained for purposes of post-accident drug testing within 32 hours, attempts to make such collection shall cease. However, reasons for no collection shall be documented every 2 hours as required by DOT guidelines.~~
- ~~c) An employee subject to post-accident testing must remain available or the employee shall be considered to have refused to submit to testing. The employee is prohibited from using alcohol for eight (8) hours following the accident or until the employee has undergone testing, whichever comes first.~~

~~3) Reasonable Suspicion Testing~~

- ~~a) Reasonable suspicion for requiring a driver to submit to drug and/or alcohol testing shall be deemed to exist when a driver manifests physical or behavioral~~

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~~symptoms or reactions commonly attributed to the use of controlled substances or alcohol. Such driver conduct shall be witnessed by at least one supervisor trained in compliance with CFR 382.603.~~

~~4) Return to duty Testing~~

- ~~a) An employee found to have violated this policy shall not return to work until after undergoing return to duty tests indicating an alcohol concentration of less than 0.02 and a verified negative result for controlled substances.~~

~~5) Follow-up Testing~~

- ~~a) Following a determination by a Substance Abuse Professional (SAP) that an employee is in need of assistance in resolving problems with alcohol and/or controlled substance use and/or abuse, the employee shall be subject to unannounced follow-up testing as directed by the SAP. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty.~~

~~6) Random Testing~~

- ~~a) The City conducts random drug and alcohol testing as required by the Federal Motor Carrier Safety Administration (FMCSA) & Department of Transportation. When required, the City shall submit all drivers to a random selection system. The random selection system provides an equal chance for each driver to be selected each time random selection occurs. Random selections shall be reasonably spread throughout the year. The City shall select, at a minimum, fifty percent (50%) of the average number of driver positions in each calendar year. The City shall select, at a minimum, ten percent (10%) of the average number of driver positions for the random alcohol testing. Random selection, by its very nature, may result in drivers being selected in successive selection or more than once a calendar year.~~
- ~~b) If a driver is selected at random, for either drug or alcohol testing, a City official shall notify the driver. Once notified, every action the driver takes shall lead to a collection and the employee must proceed immediately to the testing site. If the driver engages in conduct that does not lead to a collection as soon as possible after notification, such conduct may be considered refusal to a test.~~

- ~~(E) Refusal to Test — 49 CFR Part 40, (40.261) — No driver shall refuse to submit to either alcohol or controlled substances tests. Refusals to test are violations and shall require the same consequences as positive results. The following are examples of refusals to test:~~

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- ~~1) Failure to appear within a reasonable amount of time from scheduled appointment (except in a pre-employment scenario)~~
- ~~2) Failure to remain at collection site~~
- ~~3) Failure to provide adequate amount of urine, breath or saliva and there is no valid medical explanation~~
- ~~4) Failure to undergo a medical examination when required to do so~~
- ~~5) Failure to sign the Drug Testing Consent Release Form~~
- ~~6) Failure to cooperate with any part of the testing process~~

~~(F) Consequences of Policy Violation—Any driver who becomes unqualified or engages in prohibited conduct as set forth herein may be subject to disciplinary action, up to and including termination of employment.~~

~~(G) Substance Abuse Evaluation~~

- ~~1) The City shall provide a list of names, addresses and telephone numbers of qualified substance abuse professionals to employees (including new applicants) who violated DOT drug and alcohol regulations. If the driver desires to become re-qualified, the driver shall be evaluated by a Substance Abuse Professional (SAP) and submit to the SAP's recommendations which may include education and treatment, in order to become re-qualified. The driver shall submit to and successfully complete a return-to-duty drug and/or alcohol test. Such driver is also subject to follow up testing. Follow up testing is separate from and in addition to the City's reasonable suspicion, post-accident, and random testing procedures. Follow up testing shall be on a random basis and be in accordance with the instruction of the SAP. Follow up testing may continue for a period of up to 60 months following the driver's return to duty. No fewer than 6 follow up tests shall be performed in the first 12 months. The costs of the SAP evaluation, education and prescribed treatment shall be discussed with the driver and payment responsibility shall be assigned based on benefits and union agreements. The City does not guarantee or promise a position to the driver should he/she regain qualified status.~~

~~(H) Authorization for Previous Test Records (49 CFR 40.25)~~

- ~~1) Within 30 days of performing a safety sensitive function, federal regulations require that the City obtain certain drug and alcohol testing records from the driver's previous employers. The records of the past two years regarding drug and alcohol testing records is required to be provided to employers under federal regulation.~~

~~(I) Urine and/or Blood Specimen for Controlled Substances~~

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- ~~1) Drug testing shall be performed on urine and/or blood samples and shall be tested for the presence of drugs and/or metabolites of the following controlled substances: (1) marijuana, (2) cocaine, (3) opiates, (4) phencyclidine (PCP), and (5) amphetamine/methamphetamine. Specimens shall undergo a screening test, and if necessary, a confirmation test. Collectors who have received formal training shall perform collections of urine and/or blood specimens. Specimens shall be tested at a Substance Abuse and Mental Health Services Association (SAMHSA) certified laboratory.~~
 - ~~2) Test results shall be reported by the laboratory to a Medical Review Officer (MRO) designated by the City. Pursuant to DOT regulations, individual test results for applicants and drivers shall be released to the City and shall be kept strictly confidential unless consent for the release of the test results has been obtained. Any individual who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.~~
 - ~~3) An individual with verified positive test results shall be offered, by the MRO, the opportunity to have a portion of the original sample sent to a different SAMHSA-certified laboratory. The sample shall be tested for the presence of the controlled substance(s) found in the initial screening and confirmation testing procedures. The individual shall decide to have the split specimen tested within 72 hours of the initial notification of the positive result. The City shall ensure that the test takes place even if the individual does not have the funds to pay for the test. The City may elect to collect payment from the individual for the costs of the additional testing procedure.~~

~~(J) — Alcohol Tests~~

- ~~1) — The City shall perform initial alcohol tests using saliva or breath testing methods approved by the Department of Transportation. The driver shall follow all instructions given by the alcohol testing technician. In the event a driver tests positive on the initial test, he/she shall submit to a confirmation test performed on an approved evidential breath testing analyzer. If the confirmation result is 0.02 to 0.039, the driver shall be removed from duty for 24 hours or until his/her next scheduled on duty time frame expires. Drivers with tests indicating an alcohol concentration 0.04 or higher are considered to have violated DOT regulations, shall be removed from safety-sensitive duties and shall be referred to a substance abuse professional (SAP). Random, post-accident and alcohol tests shall be performed just prior to, during, or just after duty. Return-to-duty tests shall be performed after the SAP has determined the employee has successfully complied with prescribed education and/or treatment.~~

~~(K) — Medical Cannabis~~

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- ~~1) The use of medical cannabis, also known as medical marijuana, is prohibited for employees subject to Federal Motor Carrier Safety Administration (FMCSA) and US Department of Transportation (DOT) regulations, requirements and testing procedures. Even though the State of Minnesota permits the use of medical cannabis, the Federal government, US DOT and FMCSA do not recognize the State Law. Therefore, medical marijuana remains a drug listed in Schedule I of the Controlled Substances Act and it remains unacceptable for any safety-sensitive employee subject to drug testing under the DOT's drug testing regulations to use marijuana.~~

~~Employees will continue to be subjected to all US DOT and FMCSA regulations, guidelines and testing procedures including random and other required testing such as pre-employment and post-accident testing. Any employee with a positive result in our current drug testing program will be required to follow the normal positive test result process which may include, but is not limited to, leave or suspension, referral to a Substance Abuse Professional for evaluation and treatment recommendations, completion of the return-to-work process, and/or possible termination. Employees considering the use of medical cannabis are encouraged to discuss this matter with their physician, inform him/her you are an employee subject to US DOT and FMCSA regulations and testing, and possibly explore other treatment options that will not compromise one's ability to pass a required drug test.~~

~~(L) Training~~

- ~~1) The City shall ensure supervisors designated to determine whether reasonable suspicion exists to require a driver to undergo testing, receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech, and performance indicators of alcohol misuse and use of controlled substances.~~
- ~~2) The City shall provide educational material that explains the requirements of 382.601, consequences of violating the regulations, and the employer's policies and procedures with respect to meeting these requirements. The City shall ensure each driver is required to sign a statement certifying they have received a copy of these materials described in CFR 382.601.~~
- ~~3) The policy is not intended nor should it be construed as a contract between the City and the employee. This policy may be changed at any time at the sole discretion of the City.~~

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SECTION 19. CITY DRIVING POLICY

This policy applies to all employees who drive a vehicle on City business at least once per month, whether driving a City-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently, but whose ability to drive is essential to their job due to the emergency nature of the job. The City expects all employees who are required to drive as part of their job to drive safely and legally while on City business and to maintain a good driving record.

The City will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their immediate supervisor on the first work day after any temporary, pending or permanent action is taken on their license and to keep their supervisor informed of any changes thereafter.

The City will determine appropriate action on a case-by-case basis.

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SECTION 20. ACCEPTABLE USE POLICY FOR TELEPHONE, COMPUTER, AND NETWORK SYSTEMS

Employees are required to check and respond to their e-mail as well as change/update their telephone voicemail message and respond to such messages, as applicable and necessary to carry out their duties as City employees in a prompt and appropriate manner, including providing notice of vacation and other leaves.

20.1 Use of Cellular Phones

This policy is intended to define acceptable and unacceptable uses of cellular telephones. Its application is to ~~insure~~ensure cellular phone usage is consistent with the best interest of the City without unnecessary restriction of employees in the conduct of their duties. This policy will be implemented to prevent the improper use or abuse of cellular phones and to ensure that City employees exercise the highest standards of propriety in their use.

20.1.1 General Policy

City issued cellular telephones are City equipment and intended for the use of City employees in the conduct of their work for the City. Supervisors are responsible for the cellular telephones assigned to their employees and will exercise discretion in their use.

Use of public resources by City employees for personal gain and/or private use including, but not limited to, outside employment or political campaign purposes, is prohibited and subject to disciplinary action which may include termination and/or criminal prosecution, depending on the circumstances. Incidental and occasional personal use may be permitted with the approval of the supervisor.

The City reserves the right to inspect any data, emails, social media content, files, settings or any other aspect or access made by a City-owned cellular telephone and will do so on an as needed basis as determined by the City Administrator.

Employees must care for the equipment in a responsible manner and take appropriate precautions to prevent theft, damage and vandalism. In the event a City-owned cell phone is lost or stolen, the employee is responsible for reporting it to their supervisor as soon as possible.

The City recognizes that some personal use of City-owned cellular telephones has and will occur. Some controls are necessary, however, to protect the City's equipment and to prevent abuse of this privilege.

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- Only City employees may use City-owned equipment. Family members or friends of employees are not allowed to use City equipment or technology resources.
- Personal use must take place during non-work hours (breaks, lunch hour, before or after work). Personal use should never preempt work use.
- Reasonable use of City cellular telephones for personal communications is allowable, provided it does not interfere with an employee's normal work and is consistent with all provisions in this policy.
- If an employee wants to use or connect their own peripheral tools or equipment to City-owned cellular telephones (such as digital cameras, PDAs, disks, cell phones, mp3 players or flash drives), they must have prior approval from their supervisor and must follow provided directions for protecting the City's equipment.
- The City may inspect any data or information stored on its equipment or network, even if the information is personal to the employee.
- Use of City equipment or technology for personal business interests, for-profit ventures, political activities or other uses deemed by the City Administrator to be inconsistent with City activities or otherwise impermissible under other City policies is not allowed. If there is any question about whether a use is appropriate, it should be forwarded to the City Administrator for a determination.

In cases where the City does not regard accounting for personal calls to be unreasonable or administratively impractical due to the minimal cost involved, personal calls made by employees on a City-provided cellular phone must be paid for by the employee through reimbursement to the City based on actual cost listed on the City's phone bill.

20.1.2 Personal Calls

During working time, employees are expected to keep the number and length of personal calls to a minimum.

20.1.3 Long Distance Personal Calls

Any personal long-distance calls placed by an employee ~~must~~ should be reported to the ~~City Administrator~~ Finance Director on an appropriate form. The City must be reimbursed by the employee for the cost of any long distance personal calls. The notification requirement may be suspended by the City Administrator if the cost of doing so outweighs the need for reimbursement (for example, if the City phone plan includes long distance at no additional charge).

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20.1.4 Cellular Telephones

Cellular telephones may be used for conducting City business at locations or in situations where a regular telephone is not available. If a regular telephone is accessible, it should be used rather than the cellular telephone.

20.1.5 Procedures

It is the objective of the City to prevent and correct any abuse or misuse of cellular telephones through the application of this policy. Employees who abuse or misuse such telephone may be subject to disciplinary action.

20.1.6 Responsibility

The City ~~Council~~Administrator, or ~~its~~his/her designee(s), will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement within their departments.

This policy applies to all City drivers while operating a company vehicle. The purpose of this policy is to promote a safe work environment and increase public safety. The policy provides guidelines to employees for the use of personal mobile communication devices while operating a vehicle.

This policy applies to both incoming and outgoing communication via personal mobile devices.

Use of a personal mobile device while driving is restricted to the vehicle parked in a safe location and during employee breaks. Text messaging or internet usage while driving is prohibited, except for Police use of Mobile Data Terminals (MDT). Failure to follow this policy may result in disciplinary action up to and including termination.

20.2 Computer Use Policy

This policy serves to protect the security and integrity of the city's electronic communication and information systems by educating employees about appropriate and safe use of available technology resources.

The City reserves the right to inspect any data, emails, social media content, files, settings or any other aspect or access made by a city-owned computer or related system and will do so on an as needed basis as determined by the City Administrator.

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All employees are responsible for reading and following information that may be distributed from time-to-time by Administration and/or our technology consultants about appropriate precautions to protect City systems.

An employee who violates any aspect of this policy may be subject to disciplinary action including revocation of certain system privileges or termination.

20.2.1 Personal Use

The City recognizes that some personal use of City-owned computers and related equipment has and will occur. Some controls are necessary, however, to protect the city's equipment and computer network and to prevent abuse of this privilege.

- Only City employees may use City-owned equipment. Family members or friends of employees are not allowed to use City equipment or technology resources.
- Personal use must take place during non-work hours (breaks, lunch hour, before or after work). Personal use should never preempt work use.

Reasonable use of City email systems for personal correspondence is allowable, provided it does not interfere with an employee's normal work and is consistent with all provisions in this policy. Employees should treat this privilege as they would the ability to make personal phone calls during work hours.

- Reasonable use of the city's access to the Internet for personal reasons is allowable, provided it doesn't interfere with normal work and is consistent with all provisions in this policy.
- If an employee wants to use or connect their own peripheral tools or equipment to City-owned systems (such as digital cameras, PDAs, disks, cell phones, mp3 players or flash drives), they must have prior approval from their supervisor and must follow provided directions for protecting the city's computer network.
- Use of City equipment or technology for personal business interests, for-profit ventures, political activities or other uses deemed by the City Council to be inconsistent with City activities is not allowed. If there is any question about whether a use is appropriate, it should be forwarded to the City Council for a determination.

20.2.2 Software, Hardware, Games, and Screen Savers

In general, all software and hardware required for an employee to perform his or her job functions will be provided by the agency. Requests for new or different equipment or

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software should be made to your supervisor, department head or directly to the City Administrator.

The following is approved software that may be downloaded by employees without prior approval:

- Microsoft updates as provided in automatic updates to the user.
- Antivirus software updates as provided in automatic updates to the user.

Unapproved software or downloads (free or purchased), hardware, games, screen savers, toolbars, clipart, music and movie clips, other equipment, software or downloads that have not been specifically approved by the Supervisor or City ~~Council~~ Administrator may compromise the integrity of the city's computer system and are prohibited.

The Administration department and/or its representatives, without notice, may remove all unauthorized programs or software, equipment, downloads, or other resources if they could harm systems or technology performance.

If there is any question about whether software or hardware downloads, etc. are appropriate it should be forwarded to the City Administrator for a determination.

20.2.3 Electronic Mail

The city provides employees with an email address for work related use. Some personal use of the city email system by employees is allowed, provided it does not interfere with an employee's normal work and is consistent with all City policies.

The agency allows employees to access personal email accounts via the Internet provided such access occurs during non-work hours and fully complies with this computer use policy.

An employee's personal email (and other personal documents) accessed via a City computer could be considered "public" data and may not be protected by privacy laws. Personal email and computer use may be monitored as directed by the City Administrator and without notice to the employee. Employees should not expect privacy in any activity conducted on a City owned computer.

The following policies relate to both business and personal email content sent from a City computer:

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- Use common sense and focus primarily on using email for City business. Never transmit an email that you would not want your boss or other employees to read, or that you'd be embarrassed to see in the newspaper.
 - Do not correspond by email on confidential communications (e.g. letters of reprimand, correspondence with attorneys, medical information).
 - Do not open email attachments or links from an unknown sender. Delete junk or "spam" email without opening it if possible, do not respond to unknown senders.
 - Do not gossip or include personal information about yourself or others in an email.
 - Do not use harassing language, including sexually harassing language or any remarks including insensitive language or derogatory, offensive or insulting comments or jokes in an email.
 - All emails must comply with all City policies, including those related to respectful workplace, harassment prevention and workplace violence.
 - Do not curse or use swear words in an email.

20.2.4 Instant Messaging

The city does not provide employees with resources or tools to communicate by Instant Messaging (IM) when conducting City business, except for Police MDTs. Employees are not allowed to use IM as a mechanism for personal communication through the city's computer network or when using City equipment, and are not allowed to download or install any IM software on their City computer.

20.2.5 Social Media

The city may have or use social media sites such as Facebook and MySpace, blogs and microblogs such as Twitter, for official City business. When using social media to support official City business in accordance with job duties, individuals should clearly identify themselves as connected to the city. Personal use of social media by city staff - whether about the city or not, and whether positive or negative - will reflect on the city as a whole. Personal use of social media should not violate any city policies already in existence, such as those on harassment prevention.

20.2.6 Storing and Transferring Documents

Electronic documents, including emails, electronic communication and business-related materials created on an employee's home or personal computer, should be stored on the agency's network in accordance with agency records retention policies and the Minnesota Data Practices Act. The following are some general guidelines that may be useful to consider.

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- Electronic communication that is simple correspondence and not an official record or transaction of City business should be deleted as soon as possible and should not be retained by employees for more than three months.
- City related documents that an employee creates on his or her home computer or any other computer system should be copied to the city's network files.
- Documents or electronic communications that may be classified as protected, confidential or private information under data practices requirements should be stored separately from other materials.

If you are unsure whether an electronic communication or other document is a government record for purposes of records retention laws, or is considered protected or private under data practices, check with your supervisor, or the City Administrator. If you are unsure how to create an appropriate file structure for saving and storing electronic information, contact the City Administrator.

Transferring data and documents between computer systems requires information to be stored on a CD-ROM, flash or USB drive, or other storage media. These items can also be used to transmit computer viruses or other items harmful to the city's computer network. The City has installed anti-virus software on each computer to protect against these threats by automatically scanning storage media for viruses and similar concerns. The anti-virus software provides automatic updates that employees will be notified of with a pop-up window from the current agency supported Anti-Virus Software. All employees should follow directions for updating anti-virus software as prompted. If you have any questions about how to update your anti-virus software or check your storage media before you use it, check with your supervisor or City Administrator.

20.2.7 Internet

The city provides Internet access to employees for work on City business. Employees may use this access for work related matters in a professional manner.

Occasional personal use of the Internet is acceptable within the bounds of all City policies. The following considerations apply to all uses of the Internet whether business related or personal:

- There is no quality control on the Internet. All information found on the Internet should be considered suspect until confirmed by another source.
- Internet use during work hours must be limited to subjects directly related to job duties.

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- Personal use of the Internet during non-work hours (breaks, lunch hour, before or after work) is permitted. However, employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races or religions, or in manners that otherwise violate city policies related to respectful workplace and harassment prevention. This prohibition includes information on social media sites such as Facebook and MySpace blogs and microblogs such as Twitter. If you are unsure whether a site may include inappropriate information, you should not visit it.
- No software or files may be downloaded from the Internet unless approved in advance by your supervisor or the City ~~Council~~Administrator. This includes but is not limited to free software or downloads, maps, weather information, toolbars, music or photo files, clipart, screensavers and games.
- Employees may not participate in any Internet chat room - an online meeting place to discuss a particular topic, sometimes in semi-privacy - unless the topic area is related to City business.
- The city may monitor any employee's use of the Internet for any purpose without prior notice, as deemed appropriate by the City Council.

20.2.8 Passwords and Physical Security of Equipment

Employees are responsible for maintaining computer passwords and following these guidelines:

- Passwords must be at least eight (8) characters long and include both lower and upper case characters, at least one number and at least one non-alpha-numeric character (e.g., *,&,% , etc.). An example might be Pol!ci3S.
- Your passwords should not be shared or told to anyone, but you must share it with your supervisor. If it is necessary to access an employee's computer when he or she is absent, contact the supervisor, or City Administrator.
- Passwords should not be stored in any location on or near the computer. You must record your password in a document or hard copy file and hand it to the City Administrator. The City Administrator must store the passwords in a locked receptacle ~~in the City's vault~~. Do not store it electronically in a palm pilot or cell phone system.

Use caution if you leave equipment unattended when it is generally small and portable. Do not leave City computer equipment in an unlocked vehicle or unattended at any off-site facility (airport, restaurant, etc.).

20.2.9 Remote Access

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Certain employees may be given the ability to access the city's computer systems from remote locations or from home, using either personal equipment or City-owned equipment.

Remote access is limited to staff classified as exempt and who frequently work independently on City business. Non-exempt staff may be given temporary access from time to time as

needed, but only with the approval of their supervisor, the City Administrator and the technology consultant.

Employees with remote access privileges will be given specific instructions from the city's technology consultant about how to protect City equipment and information resources. If you have any questions about remote access to the city's network, check with your supervisor or City Administrator.

20.2.10 Notice of Computer Problems

Employees are responsible for notifying the City Administrator or its designee(s) about computer problems or odd computer behavior. Employees should err on the side of caution when reporting issues because small problems may indicate a more serious network or computer system issue.

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SECTION 21. COMMUNICATIONS, PRIVACY, AND SECURITY

21.1 Data Practices

All data collected, received, or maintained by the City, including data collected, received, or maintained by City employees are governed by the Minnesota Government Data Practices Act (“MGDPA”). All employees must exercise extreme care to maintain data in accordance with the provisions of that law. Employees shall never release any private, nonpublic, or confidential data to any non- City employee (including, but not limited to, employees’ families, friends, and spouse) or to any City employee not officially concerned with the information.

If an employee is uncertain whether data is public or nonpublic, private or whether the data can be released, accessed or discussed, the employee must consult with their supervisor or the City Administrator and the applicable policies and provisions of the MGDPA [and the City’s Data Practices Policy](#).

An employee found to have violated the Data Practices Act-, [the City’s Data Practices Policy](#), or the provisions of this section may be subject to disciplinary action, up to and including immediate termination.

21.2 Personnel File

The City Administrator’s office will maintain a personnel file on each employee. These files are maintained in accordance with the Minnesota Government Data Practices Act and other laws related to the collection and retention of information. Personnel files are generally available for the employee’s review during the City Administrator’s regular office hours. The City will release copies of records in the personnel file only in accordance with the Minnesota Government Data Practices Act.

21.3 Communications

All City employees have a responsibility to help communicate accurate and timely information to the public about City business in a professional manner. Requests for private data or information outside of the scope of an individual’s job duties should be routed to the appropriate department or to the data practices authority. Any employee who identifies a mistake in a communication should bring the error to the City Administrator or other appropriate staff. Regardless of whether the communication is in the employee’s official City role or in a personal capacity, employees must comply with all laws related to trademark, copyright, software use etc.

When responding to media [or other](#) requests, employee should follow these steps:

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1. If the request is for routine or public information (such as a meeting time or agenda) provide the information.
2. If the request is regarding information about City personnel, potential litigation, controversial issues, an opinion on a City matter, or if an employee is unsure if the request is a “routine” question, forward the request to the City Administrator. An appropriate response would be, “I’m sorry, I don’t have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person who will get back to you as soon as he/she can.” Then ask the media representative’s name, questions, deadline and contact information.

All news releases concerning City personnel will be the responsibility of the City Administrator. When/if the City Administrator authorizes a staff person to communicate on behalf of the City in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the City. Account names on social media sites must be clearly connected to the City.
- All information must be respectful, professional and truthful. Corrections must be issued when needed.
- Personal opinions generally don’t belong in official City statements. One exception is communications related to promoting a City service. For example, if an employee posted on the City’s Facebook page, “My family visited Hill Park this weekend and really enjoyed the new band shelter.” Employees who have been approved to use social media sites on behalf of the City should seek assistance from the City Administrator on this topic.
- Employees should be aware that the data transmitted or stored on their personal technology (cell phones, home computer, cameras, etc.) may be subject to the Data Practices Act.

21.4 Monitoring and Inspection

There is no general or specific expectation of privacy in the workplace, either on the premises of the city or while on duty. In general, employees should assume that what they do while on duty or on the City premises is not private. In public spaces and where the City assigns offices, vehicles, cubicles, desks, file cabinets, drawers, lockers, or other work spaces and storage areas (hereafter “areas”) to an employee, those public spaces, work spaces and storage areas continue at all times to belong to the City and may be monitored and inspected at any time without the consent or knowledge of ~~the any employee in a public space or to whom they work spaces and storage areas may be assigned.~~ Monitoring of these ~~spaces and~~ areas may include video or electronic surveillance. The contents of such surveillance is intended to and may be used for, among other things, determining whether a workplace standard has been violated and in disciplinary proceedings

Title: Communications, Privacy
SecurityEffective [date
Effective Date(s) of

may be disclosed to appropriate individuals and entities involved in making such a determination and disciplinary proceedings.

No employee should consider any of these areas, or any compartment within these areas, as belonging to the employee or otherwise to be areas private to the employee, even if the employee uses his own lock or other security device.

Employees who bring personal property into or onto the facilities or vehicles of the City should understand that such personal property may also become the subject of a workplace inspection. Because employees are presumed to use the facilities of the City to conduct the business of the City, employees should be aware that personal storage or conveyance items such as briefcases and file folders owned by the employee may be deemed to contain the property of the City and may be included in routine or focused workplace inspections.

The City reserves the right to conduct inspections to monitor compliance with rules concerning safety of employees, security of the city and individual property, drugs and alcohol, and possession of other prohibited items. "Prohibited items" includes illegal drugs, alcoholic beverages, prescription drugs or medications not used or possessed in compliance with a current valid prescription, weapons, any items of an obscene, harassing, demeaning, or violent nature, and any property in the possession or control of an employee who does not have authorization from the owner of such property to possess or control the property. "Control" means knowing where a particular item is, having placed an item where it is currently located, or having any influence over its continued placement. In addition to the City premises, the City may search employees, their work areas, lockers, personal vehicles if driven or parked on City property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and other containers. In requesting a search, the City is by no means accusing anyone of theft, some other crime, or any other variety of improper conduct.

All employees of the city are subject to this policy. However, any given search may be restricted to one or more specific individuals, depending upon the situation. Searches may be done on a random basis or based upon reasonable suspicion. "Reasonable suspicion" means circumstances suggesting to a reasonable person that there is a possibility that one or more individuals may be in possession of a prohibited item as defined above. Any search under this policy will be done in a manner protecting employees' privacy, confidentiality, and personal dignity to the greatest extent possible. The City will respond severely to any unauthorized release of information concerning individual employees.

No employee will ever be physically forced to submit to a search. However, an employee who refuses to submit to a search will face disciplinary action, up to and possibly including immediate termination of employment.

Title: Safety

Effective [date

Effective Date(s) of

SECTION 22. SAFETY

22.1 Reporting Accidents, Illnesses, and Injuries

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 shall be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to the supervisor and make arrangements for a medical appointment.

Both Minnesota workers' compensation laws and the state and federal Occupational Safety and Health Acts require that all on the job injuries and illnesses be reported as soon as possible by the employee, or on behalf of the injured or ill employee, to his/her supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms that may be necessary related to an injury or illness on the job.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

22.2 Safety Equipment and Gear

Where safety equipment is required by federal, state, or local rules and regulations, it is a condition of employment that such equipment be worn by the employee.

22.3 Unsafe Behavior

Supervisors are authorized to send an employee home immediately when the employee's behavior violates the City's personnel policies, department policies, or creates a potential health or safety issue for the employee or others. The remainder of the work day must then be taken as PTO.-

Title: Employee Assistance Program

Effective [date

Effective Date(s) of

SECTION 23. EMPLOYEE ASSISTANCE PROGRAM

Each regular position employee (seasonal employees are not covered) will be offered access to an Employee Assistance Program (EAP). An EAP is a work-based intervention program designed to identify and assist employees in resolving personal problems (e.g., marital, financial or emotional problems; family issues; substance/alcohol abuse) that may be adversely affecting the employee's performance.

Title: Ethical Conduct

Effective [date]

Effective Date(s) of

SECTION 24. ETHICAL CONDUCT

Values and Principles

This list of principles incorporates the characteristics and values that most people associate with ethical behavior. An ethical decision systematically considers which, if any, of the following principles are involved. These principles should be used as a guide by all City officials and employees.

1. Honesty - Honest persons are truthful, sincere, forthright, straightforward, frank, and candid; they do not cheat, steal, lie, deceive, or act deviously.
2. Integrity - Persons with integrity are principled, honorable, and upright; they are courageous and act on convictions; they will fight for their beliefs and will not adopt an "ends justifies the means" philosophy that ignores principles or be expedient at the expense of principles, be two-faced, or unscrupulous.
3. Promise-Keeping - Persons worthy of trust keep promises, fulfill commitments, and abide by the spirit, as well as the letter, of an agreement; they do not interpret agreements in an unreasonably technical or legalistic manner in order to rationalize non-compliance or create justifications for escaping their commitments.
4. Fidelity - Persons worthy of trust demonstrate fidelity and loyalty to persons and institutions by friendship in adversity and support and devotion to duty; they do not use or disclose information learned in confidence for personal or political advantage. They safeguard the ability to make independent, professional judgments by scrupulously avoiding undue influences and conflicts of interest.
5. Fairness - Fair persons manifest a commitment to justice, the equal treatment of individuals, tolerance for and acceptance of diversity, and they are open-minded; they are willing to admit they are wrong and, where appropriate, change their positions and beliefs; they do not overreach or take undue advantage of another's mistakes or difficulties.
6. Caring - Concern for the well-being of others manifests itself in compassion, giving, kindness, and serving; it requires one to attempt to help those in need and to avoid harming others.
7. Respect - Ethical persons demonstrate respect for human dignity, privacy, and the right to self-determination of all competent adults; they are courteous, and decent; they provide others with the information they need to make informed decisions about their own lives.
8. Citizenship - In a democracy, responsible citizenship is an ethical obligation; it involves lawfulness (abiding by laws and rules of society), participation (by voting and expressing informed views), social consciousness, and public service; public sector professionals have the additional responsibility of encouraging participation of others and a special obligation to respect and honor the democratic processes of
9. decision making and avoiding unnecessary secrecy or concealment of information and assuring that the citizenry has all the information needed to exercise responsible citizenship.
10. Excellence - Ethical persons are concerned with the quality of their work; they pursue

Title: Ethical Conduct

Effective [date

Effective Date(s) of

excellence, they are diligent, reliable, industrious, and committed. A public sector professional ~~must~~ should be well informed and well prepared to exercise public authority.

11. Accountability - Ethical persons accept responsibility for decisions, for the foreseeable consequences of their actions and inactions, and for setting an example for others. Persons in the public sector have a special obligation to lead by example, to safeguard and advance the integrity and reputation of the legislative process, to avoid even the appearance of impropriety, and to take whatever actions are necessary to correct or prevent inappropriate conduct of others.
12. Avoidance of the Appearance of Impropriety - Because of the unique importance of credibility and public trust, government officials and employees must avoid even the appearance of impropriety.



Executive Summary

City Council Work Session: February 27, 2018

AGENDA ITEM: Contractor Deposit / Water Rate	AGENDA SECTION: Discussion
PREPARED BY: Clarissa Hadler, City Admin. / Michael Burgdorf, Public Works Director	AGENDA NO. 2.c.
ATTACHMENTS: Letter, Ordinance 09-07	APPROVED BY: cgh
RECOMMENDED ACTION: Discussion.	

SUMMARY

Peter Meyer, a local contractor, has requested that Council consider eliminating the \$1,000 contractor deposit that is currently required for new residential construction and for a decrease in new construction water rate.

The Council, staff, and Mr. Meyer had discussed this at the January 9, 2018, meeting. At that time, staff attempted to clarify to some degree the purpose of the deposit, which is different than Mr. Meyer's understanding of the deposit. The item was tabled until the February meeting, and then again to the Work Session.

This issue has been brought up fairly regularly in years past. The deposit was implemented in approximately 2009 to address a number of issues at the time. Some of the original reasons were;

- reimburse the city when contractors damage the curb stop by driving trucks over it
- reimburse city if public works staff has to dig through frozen ground to turn on the water
- "straight lining" water before a meter was installed

Staff believes the deposit in it's current state is a reasonable policy due to the first two reasons alone. The issue of straight-lining water is likely a criminal one, as it is theft of the city's resources.

Mr. Meyer also requested that the city decrease the rate that contractors are charged for water. Currently, the practice is to charge the normal rates as residential customers. This means there is a base charge of approximately \$65 even if the contractor does not utilize any water. For a contractor that uses 2000 gallons, this amounts to approximately \$74.

Attached please find a 2009 ordinance that enacted a new rate of \$3.75 base + 2 cents per gallon with no sewer or other fees for contractors. This ordinance was apparently never implemented.

Mr. Meyer is requesting that the contractor rate be decreased to 1 cent per gallon as the bulk rate had been decreased to that at some time.

Below are some comparisons of sample water bills for each policy.

Residential Rates Minimal Water Usage				Residential Rates 2000 gallons			
	# Gall.	Charges	per gallon		# Gall.	Charges	per gallon
Water Base		13.75		Water Base		13.75	
Water / gall	0	0	0.00208	Water / gall	2000	4.16	0.00208
Sewer Base		37.7		Sewer Base		37.7	
Sewer / gall	0	0	2.59	Sewer / gall	2000	5.18	2.59
State Charge		0.53		State Charge		0.53	
Street Reconstruction		10.09		Street Reconstruction		10.09	
Stormwater Pond		0.25		Stormwater Pond		0.25	
Compost		0.5		Compost		0.5	
Sidewalks		1.75		Sidewalks		1.75	
TOTAL		64.57		TOTAL		73.91	

Contractor Rate @ \$.02 / gall.				Contractor Rate @ \$.01 / gall.			
	# Gall.	Charges	per gallon		# Gall.	Charges	per gallon
Water Base		3.75		Water Base		13.75	
Water / gall	2000	40	0.02	Water / gall	2000	20	0.01
Sewer Base		0		Sewer Base		0	
Sewer / gall		0		Sewer / gall		0	
State Charge		0.53		State Charge		0.53	
Street Reconstruction		10.09		Street Reconstruction		10.09	
Stormwater Pond		0.25		Stormwater Pond		0.25	
Compost		0.5		Compost		0.5	
Sidewalks		1.75		Sidewalks		1.75	
TOTAL		56.87		TOTAL		46.87	

RECOMMENDATION

Staff recommends discussion, with a consideration of implementing the Contractor Rate at \$.01 per gallon. Staff believes it is reasonable to retain the Street Reconstruction, Stormwater Ponds, Compost and Sidewalk fees on new construction. This could be brought forward as an Ordinance at the next Council meeting.

To City of Plainview Council,

We would like to propose a change in the water and sewer billing for new construction.

The proposal would be for the contractor to call for the water meter when the new home is framed. The water is needed for drywell taping, painting and if necessary before the home closes, watering of new sod or grass seed.

This would solve the problem of straight lining the system. The contractor would be billed for the water used. At the closing of the new home the new owners will sign up for water and sewer service and the city would read the meter for the new billing.

Please review this for the contractors does not use the sewer system. Why should they have this added cost?

If any questions on this issue please contact me at 534-2310.

Peter Meyer

M... R... Inc.

To Plainview City Council
from Meyer Builders and other Contractors,
In 2007 and 2008, two Contractors
(out of town) were building homes in
Fisk Acres and Harvest Ridge. They
were caught straight lining water
before the meter were installed.

The City Council put a \$1,000.00
deposit on all building permits
because of this.

With the (attached) ordinance
in place, we see no reason to
have the \$1,000.00 deposit in the
building permit.

Meyer Builders
Greg Speedling
Kenny Sylvester
Lelton Builders

**ORDINANCE NUMBER 09-07, AMENDING 09-03.1 AND 09-03, CREATING AND
ENACTING SECTION OF THE PLAINVIEW CODE OF ORDINANCES
CONCERNING WATER SERVICE & FEES FOR CONTRACTORS
CONSTRUCTING NEW HOMES**

WHEREAS, the City Council wishes to adopt fees, penalties, and charges by ordinance;

**NOW THEREFORE, IT IS ORDAINED BY THE CITY OF PLAINVIEW,
MINNESOTA AS FOLLOWS:**

Section 802 of the Plainview Code of Ordinances is hereby created and enacted to read as follows for contractors constructing new homes:

Residential -Base Monthly Fees

\$3.75

Utility Fees, Water (Monthly)
(per gallon)
+ \$.02/gallon

A property paying this rate is not required to pay the portion of the sewer charge based upon water consumption during this time.

This ordinance shall take effect and be in force after its passage and publication according to law.

Adopted by the City Council of the City of Plainview, this 11th day of August, 2009

Richard E Sawyer, Mayor

Renee Mierau, City Clerk/Finance Director

Plainview City Council Meeting
MINUTES
August 11, 2009

Regular meeting of Plainview City Council was called to order August 11, 2009 at 7:00 p.m. by Mayor Richard Sawyer.

Council Present – Mayor Richard Sawyer, Larry Fix, Jim Pederson, Fred Heaser, Bill Goede
Council Absent – none

Finance Director/City Clerk – Renee Mierau

Attorney – Fred Suhler, Jr.

Visitors: Tim Hruska, Ione Spring Jacobs, Verlynn LeVan, Steve Erwin, Cheryl Nymann, Michael Burgdorf, Mike Campion.

APPROVAL OF AGENDA

MOTION: Goede moved, Pederson second to approve the agenda. Motion passed unanimously.

CONSENT AGENDA

Minutes- 7/28/2009

Building Permits-0

Bills-\$345959.84

Other Licenses/Permits- 1

Department Head Reports-1

MOTION: Pederson moved, Fix second to approve the consent agenda, motion passed unanimously.

PUBLIC HEARINGS

Second Reading of Ordinance Change for Water/Sewer Fees for New Construction

Mayor Sawyer read Ordinance Number 09-07 amending 09-03.1 and 09-03, creating and enacting section of the Plainview Code of Ordinances Concerning Water Service & Fees for Newly Constructed, but Currently Unoccupied, Residence. Base price of \$3.75 and \$.02/gallon and no sewer charge.

Discussion was held. Council member Fix stated that he had thought that the ordinance was designed to read contractors constructing new homes and would like it worded that way. Council member Pederson thought it stated the same thing. Attorney Suhler stated that if this is what is charged for hydrant sales, he can't imagine to many people would sign up for this.

MOTION: Goede moved, Heaser second to approve the second reading of Ordinance 09-07 with the amendment to change the wording and have it published. Motion passed unanimously.



Executive Summary

City Council Work Session: February 27, 2018

AGENDA ITEM: Staff Updates	AGENDA SECTION: Updates
PREPARED BY: Clarissa Hadler, City Administrator / Michael Burgdorf, Public Works Director	AGENDA NO. 3
ATTACHMENTS:	APPROVED BY: cgh
RECOMMENDED ACTION: Discussion as needed.	

SUMMARY

Staff will provide brief updates on the various topics. Given time restrictions, Council may request additional information or request that items be added to the Regular Meeting schedule as appropriate. (Times are approximate.)

- 7:00 A. Library Repairs
- 7:10 B. Comprehensive Plan
- 7:15 C. TAP Grant / MnDOT Landscape Grant / Lighting Choice Process
- 7:25 D. School Drainage Issue
- 7:35 E. Zoning Code Amendment
- 7:40 F. Franchise Agreements (Midco / HBC?)
- 7:45 G. Meyers TIF Contract
- 7:50 H. Council Work Session Schedule / Goal Setting
- 7:55 I. Lawsuit - Nothing confidential. No need to close meeting unless Council has something in particular that they would like to discuss.