

AGENDA

packet 1

CITY OF EMILY
Emily, MN 56447

December 13, 2023

SPECIAL COUNCIL MEETING

12:00 p.m. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

- Revised proposed Personnel Policy, continued from December 12, 2023 regular Council Meeting, pending City Attorney review and effective January 1, 2024
- Resolution 23-49 Receiving Feasibility Report and Calling Hearing on Improvement for 2024 Road Improvement Project
- Proposed Special Assessment and Trunk Area Policies and Procedures for Public Improvements and Maintenance Costs
- Bond/Payment Scenarios for 2024 Road Improvement Project

ADJOURN

**HUMAN RESOURCES & BENEFITS INFORMATION
PERSONNEL POLICY**

Article I. INTRODUCTION

Section 1.01 Purpose

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the city of Emily. They should not be construed as contract terms for any city employees. No supervisor or city representative has any authority to enter into any agreement for employment for any specific period of time, or to make any agreement contrary to this provision. Nothing in this Personnel Policy, or in other City of Emily policies which may be communicated to the employee, constitutes a contract of employment for any city employee. The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the city. These policies supersede all previous personnel policies. As an employee, you are responsible for complying with current city policy at all times. Except where noted otherwise, the City Council is charged with ensuring compliance with these personnel policies.

Except as otherwise prohibited by law, the City of Emily has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.

Section 1.02 Scope

Except as otherwise specifically provided, these policies apply to all employees of the City, whether paid or volunteer, except the following:

1. Elected officials
2. City attorney
3. Members of city boards, commissions, and committees
4. Consultants and contractors
5. 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. If any specific provisions of the personnel policies conflict with any written employment agreement with an Employee, the written employment agreement with that Employee will prevail. Union employees are encouraged to consult their collective bargaining agreement first for information about their employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

These policies serve as an information 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 Personnel Committee 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 those rules will be further explained, and enforcement discussed with the employee by the immediate supervisor.

Section 1.03 EEO Policy Statement

The City of Emily is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Emily will not discriminate against any employee or job applicant on the basis of race, (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists) color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

Section 1.04 Data Practices Advisory

Employee records are maintained in a location designated by the city clerk. 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.

Section 1.05 Media Requests

All city employees have a responsibility to help communicate accurate and timely information to the public 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 reporting should bring the error to the mayor 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.

Except for routine events and basic information readily available to the public, all requests for interviews or information from the media are to be routed through the mayor. No city employee is authorized to speak on behalf of the city without prior authorization from the mayor or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites. When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the mayor of the request.
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 mayor. 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 mayor.

When/if the mayor 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 and approved by the city administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: "The city finished street cleaning on 16 streets in the northwest corner of the city this past week" instead of "The city is doing a great job with street cleaning this year!" Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following 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.~~

- ~~• Notify the city administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for city business. Employees should be aware data transmitted or stored may be subject to the Minnesota Government Data Practices Act.~~

Section 1.06 Personal Communications and Use of Social Media

It is important for city employees to remember **that** the personal communications of employees may reflect on the city, especially if employees are commenting on city business **or commenting on issues that implicate their city employment.** As city representatives, employees share in the responsibility of earning and preserving the public's trust in the city. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. **The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:**

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The

City can act on the personal communication that violates this policy without waiting for the actual disruption.

- Remember what you write or post ~~is public and will~~ cannot easily be ~~so for a long time undone~~. It may also be spread to ~~large audiences~~ a larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation ~~concerning a co-worker or between co-workers~~ that would not be permissible in the workplace is not permissible ~~between co-workers~~ online, even if it is done after hours, from home and on home computers.
- The city expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race; ~~(including traits associated with race, including, but not limited to, hair texture and hairstyles such as braids, locs and twists)~~ national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business ~~and there is liable to be confusion whether you are speaking on behalf of the city, it would be best to~~ identify yourself and use a disclaimer such as, ~~"I am an employee of the City of Emily. However, these These~~ are my own opinions and do not represent those of the city of Emily."
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a ~~parks employee should not access a park after hours even though he or she may have a key~~; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the city (e.g., City of Emily Cop).

Article II. CITYWIDE WORK RULES & CODE OF CONDUCT

Section 2.01 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 the City of Emily. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

Honesty is an important organizational attribute to our city. Therefore, any intentional misrepresentation of facts or falsification of records, including personnel records, medical records, leaves of absence documentation or the like, will not be tolerated. Further, dishonesty in city positions may preclude workers from effectively performing their essential job duties. As just one example, a police officer with a credibility issue under a Brady/Giglio designation very likely will be excluded from providing testimony for court cases thereby creating an employment strain where an employee cannot effectively perform the essential functions of the job. Any violations will result in corrective action, up to and including termination.

The following are job requirements for every position at the City of Emily. 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.
- 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 the personnel committee and employee's supervisor.
- Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication and compassion.

Employee may hold outside employment so long as it does not impact the ability to effectively perform their duties.

Section 2.02 Attendance & Absence

The operations and standards of service in the City of Emily ~~require that~~ requires 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 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 the event of an unexpected absence, employees should 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 should leave a message ~~that includes with~~ a telephone number where ~~he/she~~ they 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.

For budgetary and confidentiality reasons, non-exempt employees (eligible for overtime pay) are not authorized to take work home or work through lunch without prior approval from their supervisor.

Section 2.03 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 their name and the serial number (if applicable) or identifying information about the equipment with his/her their 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 Personnel Committee. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

Tracking of City Owned Vehicles (As per MN Statute 626A.35)

~~The city reserves the right to install Global Positioning System (GPS) tracking devices in any of its vehicles whether owned or leased. The tracking policy applies to all regular, seasonal, and temporary city employees who drive city vehicles. The tracking policy is designed and intended to provide vehicle location and other information while in the field and enhance employee safety and security; lower maintenance costs through better preventative and predictive maintenance schedules; improve fuel economy, reduce vehicle idling, optimize vehicle utilization; and improve driver behavior while operating a city vehicle. The GPS device will allow the city to record location, route, speed, ignition status and other important diagnostic information of its vehicles. Employees should understand that GPS data may be used to make decisions regarding employee use of equipment based solely, or in part, on GPS data. Employees should also understand that they have no expectations of privacy when using city vehicles.~~

~~All Police Department vehicles, all Maintenance Department vehicles, and all snowplow trucks will be equipped with GPS tracking devices. Under the direction of the City Council GPS tracking software will be managed by the clerk's office. Reports will be made available upon request by Council Member or applicable department head.~~

~~city vehicles that are GPS equipped will have a sticker affixed in a prominent location in every vehicle stating, "Notice: This equipment is monitored by GPS".~~

~~City's goals and objectives for GPS device data collection includes educating and informing employees about idling, speeding, out of service area travel, odd hours/days travel and how to become safer and more fuel-efficient drivers. Information may be used during investigation into allegations of employee misconduct or in cases of substandard performance.~~

~~Employees who purposely disable, tamper or remove the GPS device shall be subject to disciplinary action, up to and including termination of employment.~~

~~The City Council is responsible for the development, establishment, and maintenance of procedures to implement and support this policy, and to ensure the policy is in compliance with applicable laws, City ordinances, policies and rules.~~

~~Drivers of City Owned Vehicles~~ (Except fire and first response vehicle drivers)

- ~~• The city will conduct a Motor Vehicle Records (MVR) check annually for any employee required to drive a city-owned vehicle.~~
- ~~• The city will conduct a MVR check as part of pre-employment screening for all prospective new hires who will be required to drive a city-owned vehicle.~~

~~Commercial Driver's License~~

~~If a driver is required by the city to hold a Commercial Driver's License (CDL), they MUST register with the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse.~~

- ~~• The city will conduct an annual **Limited** query with the FMCSA Clearinghouse for all employees that hold a CDL as a job requirement.~~
- ~~• The city will conduct a **Full** query with the FMCSA Clearinghouse for all prospective employees that hold a CDL as a job requirement.~~

Section 2.04 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 should 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. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

Section 2.05 Conflict of Interest

City employees 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~~ **they** should consult with the Personnel Committee.

Section 2.06 Falsification of Records

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.

Section 2.07 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. Any personal long-distance call costs will be paid for by the employee. Please refer to the cell phone policy for information on use of cellular phones.

Section 2.08 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.

Section 2.09 Smoking

The City of Emily 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 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.

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 21 and over are allowed to smoke only during their breaks and lunch, and only in areas designated for that purpose.

Article III. DEFINITIONS

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

Section 3.01 Authorized Hours

The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee’s supervisor.

Section 3.02 Benefits

Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.

Section 3.03 Benefit Earning Employees

Employees who are eligible for at least a pro-rated portion of city-provided benefits. Such employees must be year-round employees who work at least 20 hours per week on a regular basis.

Section 3.04 Core Hours

The core hours all employees (exempt and non-exempt) are expected to work are ~~9 a.m. to 3:30 p.m., Monday through Friday. Police, fire, and first response public works~~ unless employees do not have core hours and work the schedules established by their supervisors.

Section 3.04 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.

Section 3.05 Employee

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

Section 3.06 Exempt Employee

Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act.

Section 3.07 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). These amounts may change if required by law.

Section 3.8 Fiscal Year

The period from January 1 to December 31.

Section 3.9 Full-Time Employee

Employees who are required to work thirty-two (32) or more hours per week year-round in an ongoing position.

In compliance with federal health care reform laws and regulations, the city employs fewer than 50 full-time and full-time equivalent employees, so is exempt from the employer mandate penalty.

Section 3.10 Hours of Operation

The city's regular hours of operation for the city hall are Monday through Wednesday, from 8 a.m. to 4:30 p.m., and Thursday and Friday, 8 a.m. to 12:00 p.m., and for public works are Monday through Friday, from 7 a.m. to 3:30 p.m.

~~**Section 3.11 Management Employee**~~

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

Section 3.11 Non-Exempt Employee

Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.

Section 3.12 Part-Time Employee

Employees who are required to work less than thirty-two (~~32~~) hours per week year-round in an ongoing position.

Section 3.13 Pay Period

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

Section 3.14 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.

Section 3.15 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.

Section 3.16 Reclassify

Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities.

Section 3.17 Seasonal Employee

Employees who work only part of the year (~~6-month~~ 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 and see Article XII: Leaves of Absence section 12.01 for Earned Sick and Safe Leave.

Section 3.18 Service Credit

Time worked for the city. An employee begins earning service credit on the first day worked for the city. Some forms of leave will create a break in service.

Section 3.19 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 and see Article XII: Leaves of Absence section 12.01 for Earned Sick and Safe Leave.

Section 3.20 Training/Probationary Period

A six-month period 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, unless covered by a collective bargaining agreement stating a different time frame. **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.**

An employee serving ~~his/her~~ the initial probationary period may be disciplined at the sole discretion of the city, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Nothing in this policy handbook shall be construed to imply ~~that~~ after completion of the probationary period, an employee has any vested interest or property right to continued city employment.

Time served in temporary, seasonal, volunteer or interim positions are not considered part of the probationary period. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked, and the probationary period will be extended by the length of time taken.

Section 3.21 Transfer

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

Section 3.22 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.

Section 3.23 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 Personnel Committee, departments may establish a different workweek based on coverage and service delivery needs (e.g., police department, fire department, parks and recreation department).~~

Article IV. EMPLOYEE RECRUITMENT & SELECTION

Section 4.01 Scope

The Personnel Committee will manage the hiring process for positions within the city. 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. All hires will be made according to merit and fitness related to the position being filled.

Section 4.02 Features of the Recruitment System

The Personnel Committee 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.

Application for employment will **generally** be made by 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 Personnel Committee. 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 Personnel Committee. 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.

Section 4.03 Testing and Examinations

Applicant qualifications ~~may 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 another appropriate job-related exam. For example:

- Keyboarding exercises for data entry positions.
- Writing exercises for positions requiring writing as part of the job duties.
- “In-basket” exercise for an administrative support position (sets up real-life scenarios and items likely to 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 planning director position, for example.
- Scenarios of situations police officers are likely to encounter on the job testing the candidate’s decision-making skills (can be role played or multiple-choice questions).

Internal recruitments will be open to any city employee who: (1) has successfully completed the initial training period; (2) meets the minimum qualifications for the vacant position; and (3) currently is and for the past year has been in good standing with the city.

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

Section 4.04 Pre-Employment Medical Exams

The ~~Personnel Committee~~ City Council 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). The physician will notify the ~~Personnel Committee that city clerk~~ a candidate either is or is not medically able to perform the essential functions of the job, with or without accommodations, and whether the candidate passed a drug ~~and/or alcohol~~ test, if applicable.

If the candidate requires accommodation to perform one or more of the essential functions of the job, the Personnel Committee 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.

Section 4.05 Selection Process

The selection process will be a cooperative effort between the Personnel Committee 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 re-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 City of Emily needs.

Section 4.06 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 Personnel Committee will determine the level of background check to be conducted based on the position being filled.

Section 4.07 Training/Probationary Period

The training/probationary 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 ~~twelve~~ six months in duration, but may be extended by, for example, an unpaid leave of absence.

Article V. ORGANIZATION

Section 5.01 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 position. In addition, job descriptions may also describe the benefits offered and potential career path opportunities as a means to entice a qualified pool of applicants. 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 **Personnel Committee City Council** and the hiring supervisor to ensure the job description is an accurate reflection of the position and 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 Council.

Section 5.02 Assigning and Scheduling Work

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the Personnel Committee.

Section 5.03 Job Descriptions and Classifications

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

Section 5.04 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 Personnel Committee, 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.

Article VI. HOURS OF WORK

Section 6.01 Work Hours

Employee work schedules and opportunities to work remotely will be established by supervisors with the approval of the Personnel Committee. The regular workweek for employees is five days in addition to a lunch period, Monday through Friday, except as otherwise approved by the Personnel Committee in accordance with the customs and needs of the individual departments.

Section 6.02 Core Hours

To ensure employee availability and accountability to the public the city serves, all full-time employees (exempt and non-exempt) are to be at work or available to the public and co-workers during their respective department hours, Monday through Friday, unless away from the work site for a work-related activity or on approved leave.

Section 6.03 Meal Breaks and Rest Periods

A paid fifteen ~~(15)~~ minute break is allowed within each four ~~(4)~~ consecutive hours of work. An unpaid thirty ~~(30)~~ minute lunch period is provided when an employee works six ~~(6)~~ or more consecutive hours. 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 whose duties involve traveling throughout the city may stop along the assigned route at a restaurant or other public accommodation for their fifteen-minute break. Exceptions must be approved by the supervisor or Personnel Committee.

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

Section 6.04 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 leave early). Employees not reporting to work for reasons of personal safety will not normally have their pay reduced as a result of this absence. Employees will be allowed to use accrued vacation time, or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments.

In the event the city closes due to weather or other public emergency, see Article XII: Leaves of Absence section 12.01 for Earned Sick and Safe Leave.

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 supervisor or the Personnel Committee.

Article VII. COMPENSATION

Full-time employees of the city will be compensated according to the collective bargaining agreement and 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.

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, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for disclosing their 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) 284-5075 or (800) 342-5354.

Article VIII. PAYCHECKS

Section 8.01 Paychecks

Paychecks will be distributed by supervisors and will not be given to anyone other than the person for whom they were prepared, unless the person has a note signed by the employee authorizing the city to give the other person the check. Checks will be given to the spouse, or another appropriate immediate family member, in the case of a deceased employee. Distribution of paychecks to city employees is to be accomplished in a timely manner using accurate, consistent procedures.

Employees are responsible for notifying the city clerk of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc.

Section 8.02 Improper Deduction and Overpayment Policy

If an employee believes that an improper deduction or overpayment, or another type of error, has been made, they should immediately contact their supervisor. If the city determines it has made an improper deduction from a paycheck, it will reimburse the employee for the improper amount deducted and take good faith measures to prevent improper deductions from being made in the future.

In cases of improper overpayments, employees are required to promptly repay the city in the amount of the overpayment. The employee can write a personal check or authorize a reduction in pay to cover the repayment. The city will not reduce an employee's pay without written authorization by the employee. Once the overpayment has been recovered in full, the employee's year to date earnings and taxes will be adjusted (so that the year's Form W-2 is correct) and the paying department will receive the corresponding credit. When an overpayment occurs, the repayment must be made within the same tax year.

In the exceptional situation where the overpayment occurs in one tax year and is not discovered until the next year, the overpayment must be repaid in the year it is discovered, but there will be additional steps and paperwork required. Any overpayments not repaid in full within the calendar

year of the overpayment are considered “prior year overpayments” and the employee must repay not only for the net amount of the overpayment, but also the federal and state taxes the city has paid on their behalf. The city is able to recover the overpaid Social Security and Medicare taxes. Accordingly, the city will not require the employee to repay those taxes provided the employee provides a written statement that he/she will not request a refund of the taxes. The overpayment amount will remain taxable in the year of the overpayment since the employee had access to the funds. The employee is not entitled to file an amended tax return for the year but may be entitled to a deduction or credit with respect to the repayment in the year of repayment. Employees should contact their tax advisors for additional information.

Section 8.03 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. They will be paid according to the time reported on their time sheets and Maintenance Department timecards. 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 immediate termination.

All Maintenance Department employees must use the provided time clock for punch in and out at the beginning and end of every workday and the beginning and end of every lunch period.

Emily Volunteer Fire Department and Emily Volunteer First Response Unit Members

It is a great benefit to the community to allow employees who are members of the Fire Department or First Response Unit to respond to calls during work hours. The Fair Labor Standards Act (FLSA) regulates employees holding multiple positions with the same employer if an employee works more than 40 hours in one workweek. When a full-time nonexempt employee responds to a fire call or first responder call during City work hours, the employee is no longer considered a volunteer per Code of Federal Regulations (C.F.R.) Title 29, Part 553.101 and must be paid overtime at no less than time and one-half their regular rates of pay for all hours worked in excess of 40 in a workweek. (See also 29 C.F.R. Part 541 regarding first responders.) A city may establish an extended workweek for firefighters. An extended firefighter workweek would be the maximum cumulative hours that may be worked in multiple City positions before overtime is earned. The City shall define a longer workweek for firefighters as one calendar month, with 212 hours per 28 days plus an additional 7.57 hours per remaining calendar days, if applicable. (Example: 219.57 hours for day 29, 227.14 hours for day 30, and 234.71 hours for day 31) The City shall claim the small fire department exemption for any City employee who performs fire protection work if the City has fewer than five employees who perform fire protection work during the workweek.

Effective December 1, 2022, full-time nonexempt employees may continue to respond to a fire or first responder call during work hours, taking into consideration the workload of the employee’s department. Employees shall not contribute to PERA and receive service credit for a Fire Relief pension at the same time due to Minnesota law pension credit requirements.

- Full-time nonexempt employee/volunteer firefighter:

- Respond to Calls During Work Hours:
 - The employee will be paid their regular rate of pay,
 - contribute to PERA,
 - will not receive the applicable per call rate as set on the Fee Schedule Ordinance to prevent double-dipping,
 - will not receive service credit for their Fire Relief pension.
 - The employee must clock out to respond while earning overtime wages.
- Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours Up to and Including Maximum Defined Firefighter Workweek Hours:
 - The employee will receive the applicable per call, per meeting, per drill/training rates as set on the Fee Schedule Ordinance,
 - will receive service credit for their Fire Relief pension,
 - will not contribute to PERA.
- Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours AND Over Maximum Defined Firefighter Workweek Hours AND Fewer Than 5 Firefighters Worked:
 - The City will claim the small department exemption.
 - The employee will receive the applicable per call, per meeting, per drill/training rates as set on the Fee Schedule Ordinance,
 - will receive service credit for their Fire Relief pension,
 - will not contribute to PERA.
- Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours AND Over Maximum Defined Firefighter Workweek Hours AND 5 or More Firefighters Worked:
 - The City will determine a weighted average hourly rate and pay overtime hours at one and one-half times that rate per the Procedure for Paying Maintenance Department/ Firefighter Wages for Responding to Fire Calls.
 - The employee will not contribute to PERA for the overtime,
 - will not receive the applicable per call, per meeting, or per drill/training rates as set on the Fee Schedule Ordinance to prevent double-dipping,
 - will receive service credit for each call responded to for their Fire Relief pension.
 - Overtime will be calculated after the end of every month and paid on the first Wednesday of the following month.
- Full-time nonexempt employee/volunteer first responder:
 - The employee will be paid their regular rate of pay and contribute to PERA when responding to calls during work hours, but will not receive the applicable per call rate as set on the Fee Schedule Ordinance to prevent double-dipping.
 - When responding to calls after work hours or attending meetings or drills/trainings, the City will determine a weighted average hourly rate for each week and pay overtime hours at one and one-half times that rate per the weighted average calculation in the Procedure for Paying Maintenance Department/Firefighter Wages for Responding to Fire Calls.
 - The employee will not contribute to PERA for the overtime,
 - will not receive the applicable per call, per meeting, or per drill/training rates as set on the Fee Schedule Ordinance to prevent double-dipping.

- Overtime will be calculated after the end of every month and paid on the first Wednesday of the following month.

Part-time nonexempt employees/volunteer firefighters and/or first responders shall be covered by the above conditions as applicable. Seasonal Part-Time employees who are members of the Fire Department or First Response Unit shall not respond to calls during work hours.

City employees need to abide by the applicable Drug and Alcohol Testing Policy for each position.

Section 8.04 Overtime

The City of Emily has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime. **The City Council will determine whether each employee is designated as “exempt” or “non-exempt” from earning overtime.**

In general, employees in executive, administrative, and professional job classes are exempt; all others are non-exempt.

Section 8.05 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 40 in one workweek. Vacation, sick leave, and paid holidays do not count toward “hours worked.”

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 Council.

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.

Section 8.06 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 extra pay for the hours worked over 40 in one workweek.

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

- The employee is in a position that does not earn vacation or personal leave and is absent for a day or more for personal reasons other than sickness or accident.
- To offset compensation received for military pay. If an employee works part of the week in military service, the city still must pay the entire week salary to the employee, but the city could offset the amount of the military pay for the week against the employee's salary.
- The employee is in a position that earns sick leave, 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 is either not yet qualified to use the paid leave or he/she has exhausted all of his/her paid leave.
- The employee is absent for a full work week and, for whatever reason, the absence is not charged to paid leave (for example, a situation where the employee has exhausted all of his/her paid leave or a situation where the employee does not earn paid leave).
- 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 paid leave and is absent for a partial day due to personal reasons, illness, or injury, but:
 - Paid leave has not been requested or has been denied.
 - Paid leave 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 of Emily 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 of Emily 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. If an employee thinks that a wage deduction was made in error, please contact the city clerk promptly.

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.

Section 8.08 Leave Policy for Exempt Employees

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including evening meetings and/or on-call hours.

If one of the above employees is regularly absent from work under this policy and it is found 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 forty 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 Personnel Committee for specific situations as determined necessary.

Article IX. BENEFITS

Section 9.01 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 paycheck for Social Security and Medicare (the city matches the employee's Social Security and Medicare withholding for many employees). For information about PERA eligibility and contribution requirements, contact the clerk's office.

Article X. HOLIDAYS

All regular full-time and part-time employees who have been in the employment of the city for more than thirty (30) days shall be entitled to the following official holidays observed by the city:

- | | |
|---|--|
| 1. January 1 | New Year's Day |
| 2. 3 rd Monday in January | Martin Luther King, Jr. Day |
| 3. 3 rd Monday in February | Washington and Lincoln's Birthday
Presidents Day |
| 4. Last Monday in May | Memorial Day |
| 5. June 19 | Juneteenth |
| 6. July 4 | Independence Day |
| 7. 1 st Monday in September | Labor Day |
| 8. November 11 | Veterans Day |
| 9. 4 th Thursday in November | Thanksgiving Day |
| 10. 4 th Friday in November | Day after Thanksgiving |
| 11. December 25 | Christmas Day |
| 12. Floater | Employee's Choice |

All full-time employees and regular part time employees are entitled to time off with full pay on holidays. The City shall be closed for business on each such holiday, but employees may be required to work on paid holidays when the nature of their duties or other conditions require. Work performed on the above-mentioned holidays shall be compensated at 1.5 times the employee's straight hourly rate. When employee is required to work on any above-mentioned holiday they shall be compensated up to the equivalent in hours to the employee's regularly scheduled workday. (Example: Employee works 4 hours on a holiday on a day regularly scheduled to work 8 hours is paid 4 hours wage at 1.5 times the straight hourly rate and 4 hours at straight hourly rate.)

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.

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

Article XI. LEAVES OF ABSENCE

Depending upon an employee's situation, more than one form of leave may apply during the same period of time (e.g., the Family and Medical Leave Act is likely to apply during a workers' compensation absence). An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise stated, all paid time off, taken under any of the city's leave programs, must be taken consecutively, with no intervening unpaid leave. The city will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

Section 11.01 Earned Sick and Safe Leave

~~Sick leave is authorized absence from work with pay, granted to qualified full-time and part-time employees. Sick leave is a privilege, not a right.~~

~~Employees are to use this paid leave only when they are unable to work for medical reasons and under the conditions explained below. Sick leave does not accrue during an unpaid leave of absence.~~

- ~~1. Full-time employees will accumulate sick leave at a rate of 4 hours per calendar month.~~

- ~~2. Part-time employees regularly scheduled to work at least 20 hours per week will accrue sick leave on a pro-rated basis of the full-time employee schedule, but not less than 2 hours per calendar month.~~
- ~~3. Part-time employees regularly scheduled to work fewer than 20 hours per week will not earn or accrue sick leave.~~
- ~~4. Temporary and seasonal employees will not earn or accrue sick leave.~~
- ~~5. Sick leave may be used only for days when the employee would otherwise have been at work. It cannot be used for scheduled days off.~~

Carryover

~~Employees may carryover unused accrued sick leave to the following year up to a maximum of 480 hours, prorated for the amount of hours the employee works per week: 480 hours for full-time employees working 40 hours per week (100%), 384 hours for full-time employees working 32 hours per week (80%), and 312 hours for part-time employees working 26 hours per week (65%).~~

Sick leave may be used as follows:

- ~~1. When an employee is unable to perform work duties due to illness or disability (including pregnancy).~~
- ~~2. For medical, dental or other care provider appointments.~~
- ~~3. When an employee has been exposed to a contagious disease of such a nature that his/her presence at the work place could endanger the health of others.~~
- ~~4. To care for the employee's injured or ill children, including stepchildren or foster children, for such reasonable periods as the employee's attendance with the child may be necessary.~~
- ~~5. To take children, or other family members to a medical, dental or other care provider appointment.~~
- ~~6. To care for an ill spouse, father, father-in-law, mother, mother-in-law, stepparent, grandparent, grandchild, sister or brother.~~

~~Safety leave [*New July 1, 2014*] Employees are authorized to use sick leave for reasonable absences for themselves or relatives (employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent) who are providing or receiving assistance because they, or a relative, is a victim of sexual assault, domestic abuse, or stalking. Safety leave for those listed, other than the employee and the employee's child, is limited to 160 hours in any 12-month period.~~

~~After accrued sick leave has been exhausted, vacation leave may be used upon approval of the Personnel Committee, to the extent the employee is entitled to such leave.~~

To be eligible for sick leave pay, the employee will:

- ~~1. Communicate with his/her immediate supervisor, as soon as possible after the scheduled start of the work day, for each and every day absent;~~
- ~~2. Keep his/her immediate supervisor informed of the status of the illness/injury or the condition of the ill family member;~~
- ~~3. Submit a physician's statement upon request.~~

~~After an absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.~~

~~work restrictions must be stated clearly on the return to work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision. Sick leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.~~

~~The city has the right to obtain a second medical opinion to determine the validity of an employee's workers' compensation or sick leave claim, or to obtain information related to restrictions or an employee's ability to work. The city will arrange and pay for an appropriate medical evaluation when it is required by the city.~~

~~Any employee who makes a false claim for sick leave will be subject to discipline up to and including termination.~~

~~Employees must normally use sick leave prior to using paid vacation prior to an unpaid leave of absence during a medical leave.~~

~~In the event of termination of employment, every employee will receive a lump sum payment for all accrued sick time up to a prorated maximum: 240 hours for full time employees. Sick leave will normally not be approved after an employee gives notice that he or she will be terminating employment. Exceptions must be approved by the Personnel Committee.~~

~~Sick leave cannot be transferred from one employee to another.~~

“Earned Sick and Safe Leave” is paid time off and applies to all employees (including full-time employees, part-time employees, temporary employees, seasonal employees, full-time salaried and exempt employees, part-time salaried employees, volunteer firefighters, volunteer first responders, commission and board members, and election judges) performing work for at least 80 hours in a calendar year for the city. Effective January 1, 2024 any unused sick leave earned and accrued before January 1, 2024 will be converted to Earned Sick and Safe Leave.

(a) Accrual of Earned Sick and Safe Leave

1. Full-time, part-time, temporary, and seasonal employees scheduled to work at least 80 hours per calendar year will accrue Earned Sick and Safe Leave at a rate of one hour for every 30 hours worked, including overtime hours, and can earn a maximum of 48 hours each calendar year. The hourly rate of Earned Sick and Safe Leave is the same hourly rate an employee earns from employment with the City per the Local No. 49 Union Agreement or the Fee Schedule Ordinance.
2. Full-time salaried and exempt employees (Police Chief) performing work for at least 80 hours per calendar year will accrue Earned Sick and Safe Leave at a rate of one hour for every 30 hours worked and can earn a maximum of 48 hours each calendar year. Full-time salaried and exempt employees are presumed to work 40 hours per week for the purposes of Earned Sick and Safe Leave accrual calculation. The hourly rate of Earned

Sick and Safe Leave is the same hourly rate an employee earns from employment with the City per the Employment Agreement.

3. Part-time salaried employees (Librarian) performing work for at least 80 hours per calendar year will accrue Earned Sick and Safe Leave at a rate of one hour for every 30 hours worked and can earn a maximum of 48 hours each calendar year. Part-time salaried employees will track daily hours worked. The amount of Earned Sick and Safe time that may be used for an absence will be the average hours worked on the applicable day. The hourly rate of Earned Sick and Safe Leave is the employee's monthly salary per the Fee Schedule Ordinance divided by the average number of hours worked per month.
4. Volunteer firefighters and first responders performing work for at least 80 hours per calendar year will earn one hour of Earned Sick and Safe Leave for every 30 hours worked and can earn a maximum of 48 hours each calendar year. For purposes of hours worked since the departments are on an on call basis, firefighters and first responders will be considered to have worked the following hours for each of the following activities:
 - o One hour for each meeting.
 - o Three hours for each training.
 - o The amount of time on the applicable run sheet for each call.

The hourly rate of Earned Sick and Safe Leave will be at the same rate for the activity being claimed per the Fee Schedule Ordinance.
5. Volunteer first responders performing work for at least 80 hours per calendar year will earn one hour of Earned Sick and Safe Leave for every 30 hours worked and can earn a maximum of 48 hours each calendar year. For purposes of hours worked since the departments are on an on call basis, firefighters and first responders will be considered to have worked the following hours for each of the following activities:
 - o One hour for each meeting.
 - o Two hours for each monthly training.
 - o Four hours for each quarterly training.
 - o The amount of time on the applicable run sheet for each call.

The hourly rate of Earned Sick and Safe Leave will be at the same rate for the activity being claimed per the Fee Schedule Ordinance.
6. Commission and board members performing work for at least 80 hours per calendar year will earn one hour of Earned Sick and Safe Leave for every 30 hours worked and can earn a maximum of 48 hours each year. The amount of Earned Sick and Safe time that may be used for an unattended meeting will be the length of the applicable meeting. The rate of Earned Sick and Safe Leave will be at the same rate of pay as the unattended meeting per the Fee Schedule Ordinance divided by the length of the applicable unattended meeting.
7. Election judges performing work for at least 80 hours per calendar year will earn one hour of Earned Sick and Safe Leave for every 30 hours worked and can earn a maximum of 48 hours each year. The amount of Earned Sick and Safe time that may be used for an unattended training or election will be the length of the applicable unattended activity. The hourly rate of Earned Sick and Safe Leave is the same hourly rate an employee earns from employment with the City per the Fee Schedule Ordinance.
8. For employees holding multiple positions performing work for at least 80 hours per calendar year all hours worked will contribute to Earned Sick and Safe time accrual up to

- the maximum of 48 hours each calendar year. Accrual is not based on separate positions. Accrued Earned Sick and Safe time may be used for all positions held by an employee.
9. Employees performing work for less than 80 hours per calendar year do not qualify for Earned Sick and Safe Leave.
 10. Per the Minnesota Department of Labor and Industry elected officials are not considered employees and are exempt from Earned Sick and Safe Leave.
 11. Once an employee performs work for more than 80 hours per calendar year, the employee's eligibility threshold is met. Once the eligibility threshold is met, the accrual calculation includes all hours worked back to the first hour worked for the employer. Once the eligibility threshold is met, the employee will accrue one hour for every thirty hours worked moving forward, in compliance with the Carry Over and Pay Out requirements below, even if the employee does not meet the threshold of 80 hours in subsequent calendar years.

(b) Earned Sick and Safe Leave Use

The leave may be used as it is accrued in the smallest increment of time tracked by the city's payroll system (.25 hours) or, for volunteer firefighters and first responders, as described below, for the following circumstances:

- An employee's own:
 - Mental or physical illness, injury or other health condition
 - Need for medical diagnosis, care or treatment, of a mental or physical illness
 - injury or health condition
 - Need for preventative care
 - Closure of the employee's place of business due to weather or other public emergency
 - The employee's inability to work or telework because the employee is prohibited from working by the city due to health concerns related to the potential transmission of a communicable illness related to a public emergency, or seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and the employee has been exposed to a communicable disease or the city has requested a test or diagnosis.
 - Absence due to domestic abuse, sexual assault, or stalking of the employee provided the absence is to:
 - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
 - Obtain services from a victim services organization
 - Obtain psychological or other counseling
 - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking
 - Care of a family member:
 - With mental or physical illness, injury or other health condition:
 - Who needs medical diagnosis, care or treatment of a mental or physical illness, injury or other health condition

- Who needs preventative medical or health care
- Whose school or place of care has been closed due to weather or other public emergency
- When it has been determined by health authority or a health care professional that the presence of the family member of the employee in the community would jeopardize the health of others because of the exposure of the family member of the employee to a communicable disease, whether or not the family member has actually contracted the communicable disease
- Absence due to domestic abuse, sexual assault or stalking of the employee's family member provided the absence is to:
 - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
 - Obtain services from a victim services organization
 - Obtain psychological or other counseling
 - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking

For volunteer firefighters and first responders, leave may be used as it is accrued for the activities noted in Article XII, Section (a), Subsection 3. The request to use Earned Sick and Safe Leave for any unattended activity must be made in the month that it occurred. A form must be filled out with the applicable chief noting the unattended meeting/training/call in order to use the leave. The firefighter/first responder will be paid the normal pay for the unattended activity with the annual payroll and the deduction of the employee's Earned Sick and Safe Leave will be made in the amount standardized above for each activity.

- (c) For Earned Sick and Safe Leave purposes, family member includes an employee's:
- Spouse or registered domestic partner
 - Child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis
 - Sibling, step sibling or foster sibling
 - Biological, adoptive or foster parent, stepparent or a person who stood in loco parentis when the employee was a minor child
 - Grandchild, foster grandchild or step grandchild
 - Grandparent or step grandparent
 - A child of a sibling of the employee
 - A sibling of the parent of the employee or
 - A child-in-law or sibling-in-law
 - Any of the above family members of a spouse or registered domestic partner
 - Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship
 - Up to one individual annually designated by the employee

(d) Advance Notice for use of Earned Sick and Safe Leave

If the need for sick and safe leave is foreseeable, the city requires seven days' advance notice. However, if the need is unforeseeable, employees must provide notice of the need for Earned Sick and Safe time as soon as practicable. When an employee uses Earned Sick and Safe time for more than three consecutive days, the city may require appropriate supporting documentation (such as medical documentation supporting medical leave, court records or related documentation to support safety leave). However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation may include a written statement from the employee indicating that the employee is using, or used, Earned Sick and Safe Leave for a qualifying purpose. The city will not require an employee to disclose details related to domestic abuse, sexual assault, or stalking or the details of the employee's or the employee's family member's medical condition. In accordance with state law, the city will not require an employee using Earned Sick and Safe Leave to find a replacement worker to cover the hours the employee will be absent.

(e) Carry Over and Pay Out of Earned Sick and Safe Leave

Full-time employees, full-time salaried and exempt employees, and permanent part-time employees working a minimum of 20 hours per week may carryover unused Earned Sick and Safe time into the following year up to a maximum of 480 hours, prorated for the number of hours the employee works per week: 480 hours for full-time employees working 40 hours per week (100%), 384 hours for full-time employees working 32 hours per week (80%) unless otherwise stated in the collective bargaining agreement, 336 hours for permanent part-time employees working 28 hours per week (70%), or the applicable percentage for permanent part-time employees working more or less hours per week. A lump sum payment prorated for the number of hours the employee works per week up to a maximum of 240 hours of accrued Earned Sick and Safe time will be paid out when a full-time employee, full-time salaried and exempt employee, or permanent part-time employee working a minimum of 20 hours per week leaves their job, either voluntarily or involuntarily, upon completion of a carry over waiver. An employee who transfers positions retains their accrued Earned Sick and Safe time.

Part-time employees working less than 20 hours per week, part-time salaried employees, temporary employees, seasonal employees, volunteer firefighters and first responders, commission and board members, and election judges performing work for 80 hours per calendar year may carryover unused Earned Sick and Safe time into the next calendar year, but at no time may the accrued Earned Sick and Safe time exceed 80 hours. Accrued Earned Sick and Safe time will not be paid out when an employee leaves their job, either voluntarily or involuntarily. An employee who transfers positions retains their accrued Earned Sick and Safe time. An employee who returns to work for the same employer within 180 days of separation is entitled to the Earned Sick and Safe time accrued before leaving.



Alternatively, the city may wish to avoid the carry over by providing eligible employees with one of these options:

- 48 hours of "front loaded" Earned Sick and Safe Leave for the year, available for the employee's immediate use and then pay out any accrued but unused Earned Sick and Safe Leave at the end of the year at the employee's hourly rate of pay, OR
- 80 hours of Earned Sick and Safe Leave for the year, available for the employee's immediate use, without any pay out to the employee for accrued but unused Earned Sick and Safe Leave.

Other than a city elected payout as described above, there is no requirement under statute to pay out any accrued but unused accrued Earned Sick and Safe Leave.

(f) Retaliation prohibited

The city shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting Earned Sick and Safe Leave rights, requesting an Earned Sick and Safe Leave absence, or pursuing remedies. Further, use of Earned Sick and Safe Leave will not be factored into any attendance point system the city may use. Additionally, it is unlawful to report or threaten to report a person or a family member's immigration status for exercising a right under Earned Sick and Safe Leave.

(g) Benefits and return to work protections

During an employee's use of Earned Sick and Safe Leave, an employee will continue to receive the city's employer insurance contribution as if they were working, and the employee will be responsible for any share of their insurance premiums.

An employee returning from time off using accrued Earned Sick and Safe Leave is entitled to return to their city employment at the same rate of pay received when their leave began, plus any automatic pay adjustments that may have occurred during the employee's time off. Seniority during Earned Sick and Safe Leave absences will continue to accrue as if the employee has been continually employed.

When there is a separation from employment with the city and the employee, including a seasonal employee, is rehired again within 180 days of separation, previously accrued Earned Sick and Safe Leave that had not been used will be reinstated. An employee is entitled to use and accrue Earned Sick and Safe Leave at the commencement of reemployment.

Section 11.02 Vacation Leave

The city believes that vacation is important to the health and well-being of our employees and as such, provides paid vacation for eligible employees for rest and recuperation.

Vacation Leave Schedule

Full-time Employees

Years of Service	Annual Accrual on January 1*
One Year	40 Hours
Two Years	80 Hours
Five Years	120 Hours
Ten Years	120 Hours, plus 8 additional hours per year up to a maximum of 160 hours

* Earned vacation will be granted on January 1 of each year per the above schedule unless the employee is a new hire (see below).

The Fair Labor Standards Act (FLSA) does not require payment for time not worked, such as vacations, sick leave, or holidays (Federal or otherwise). These benefits are a matter of agreement between an employer and an employee (or the employee’s representative).

New Hires

Employees hired during the preceding year will not be granted vacation leave until the one year anniversary of their hire date, but will accrue vacation leave according to the Vacation Leave Schedule. After a new hire’s one year anniversary the employee would be granted the earned vacation leave from the prior year. On January 1 following the new hire anniversary, the employee would be granted the accrued vacation earned through the prior year, which would be a prorated amount.

Example:

Hire FT Employee November 15, 2021	
1 year Anniversary November 15, 2022	40 hours of vacation granted
January 1, 2023	Prorated amount of vacation granted for November 16, 2022 through December 31, 2022
January 1, 2024	80 hours of vacation granted

(a) Eligibility

Full-time employees will earn vacation leave in accordance with the above schedule.

Part-time employees who work at least 20 hours per week on a regular basis will **earn accrue** vacation leave on a prorated basis of the **above** full-time employee schedule for the corresponding year of service.

Part-time employees who work less than 20 hours per week on a regular basis, temporary and seasonal employees will not earn or accrue vacation leave.

(b) Accrual Rate

Full-time employees may accrue vacation leave to a maximum of 360 hours.

Part-time employees who work at least 20 hours per week on a regular basis will accrue vacation leave on a prorated basis of the above full-time employee schedule for the corresponding year of service.

For the purpose of determining an employee's vacation accrual rate, years of service will include all continuous time that the employee has worked at the city (including authorized unpaid leave). Employees who are rehired after terminating city employment will not receive credit for their prior service unless specifically negotiated at the time of hire.

(c) Carryover

Employees may carryover unused ~~earned accrued~~ vacation of up to two weeks, calculated on a prorated basis as applicable, to the following year up to a maximum of 80 hours.

(d) Earnings and Use

After one year of service, vacation leave may be used as it is earned, subject to approval by the employee's supervisor. Unless approved by the Personnel Committee, vacation leave will not be earned during an unpaid leave of absence.

An employee will not earn any vacation leave for any pay period unless ~~he/she is they are~~ employed by the city on the last scheduled ~~work-day~~ workday of the pay period. Further, ~~vacation leave will stop accruing as of the effective date of termination.~~ Requests for vacation must be received at least forty-eight (48) hours in advance of the requested time off. This notice may be waived at the discretion of the supervisor or Personnel Committee.

Vacation can be requested in increments as small as one hour up to the total amount of the ~~earned accrued~~ leave balance. ~~Vacation leave is to be used only by the employee who accumulated it. It cannot be transferred to another employee.~~ ~~Employees may accrue vacation leave up to a maximum of one and a half (1 1/2) times the employee's annual accrual rate. No vacation will be allowed to accrue in excess of this amount without the approval of the City Council.~~ Vacation leave cannot be converted into cash payments except at termination.

(e) Vacation Separation Payout

Full-time employees and part-time employees who work at least 20 hours per week on a regular basis will be paid unused earned and accrued vacation, accrued through the last date of active employment, subject to applicable caps as noted above, (and applicable taxes withheld) following termination of employment. The rate of pay will be the employee's base rate of pay at the employee's termination date. ~~Employees have the option of directing those dollars into a 457 deferred compensation plan (subject to IRS maximum deferral regulations and Minnesota law).~~ In the event of the employee's death, unused earned vacation time will be paid to the employee's surviving spouse directly, (if there is not personal representative of the estate appointed) up to statutory limits.

(f) Unpaid Leave

Unpaid leaves may be approved in accordance with the city personnel policies. Employees must normally use all ~~earned accrued~~ annual leave prior to taking an unpaid leave.

Other Benefits

Benefit accruals, such as vacation and holiday pay benefits, will be suspended at the beginning of the first full month of unpaid leave and will resume upon your return to active employment.

Section 11.03 Funeral Leave

Employees will be permitted to use up to three (3) consecutive working days, with pay, as funeral leave upon the death of an immediate family member. This paid leave will not be deducted from the employee's vacation or sick leave balance.

The actual amount of time off, and funeral leave approved, will be determined by the Personnel Committee depending on individual circumstances (such as the closeness of the relative, arrangements to be made, distance to the funeral, etc.).

Medical Certification

~~Good attendance is an essential job function for all city employees. If unplanned absences are excessive, 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.~~

Returning to Work After a Medical Absence

~~After a medical absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.~~

~~Any work restrictions must be stated clearly on the return to work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision. Sick leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.~~

~~The city has the right to obtain a second medical opinion to determine the validity of an employee's workers' compensation or sick leave claim, or to obtain information related to restrictions or an employee's ability to work. The city will arrange and pay for an appropriate medical evaluation when it has been required by the city.~~

Section 11.04 Military Leave

State and federal laws provide ~~protections~~ protection 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~~ workdays in any calendar year. ~~City compensation is in addition to the military pay for these 15 days, as per MN Attorney General's Opinion.~~

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 working days in advance of the requested leave. **A training notice, signed orders, or battle assembly schedule are examples of typical written notification to share with the city.** 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.

Section 11.05 Military Leave for Family Members

The city will not discharge from employment or take adverse employment action against an employee because an immediate family member is in the military forces of the United States or Minnesota.

Nor will the city discharge from employment or take adverse employment action against an employee because they attend departure or homecoming ceremonies for deploying or returning personnel, family training or readiness events or events held as part of official military reintegration programs. Employees may substitute paid leave if they choose to do so.

Unless the leave would unduly disrupt the operations of the city, employees whose immediate family member, as a member of the United States armed forces has been ordered into active service in support of a war or other national emergency, will be granted an unpaid leave of absence, not to exceed one day's duration in any calendar year, to attend a send-off or homecoming ceremony for the mobilized service member.

Section 11.06 Military Leave for Family Member Injured or Killed in Active Service

Employees will be granted up to ten ~~(10)~~ working days of unpaid leave whose immediate family member **(defined as a person's parent, child, grandparents, siblings or spouse)** is a member of the United States armed forces who has been injured or killed while engaged in active service. The 10 days may be reduced if an employee elects to use appropriate accrued paid leave.

Section 11.07 Civil Air Patrol

The city will grant employees an unpaid leave of absence for time spent serving as a member of the Civil Air Patrol upon request and authority of the State or any of its political subdivisions, unless the absence would unduly disrupt the operations of the city. Employees may choose to use vacation ~~or PTO~~ leave while on Civil Air Patrol Leave but are not required to do so.

Section 11.08 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 ~~earned~~ ~~accrued~~ vacation 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 they~~ will receive compensation for the jury duty time.

Section 11.09 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.

Section 11.10 Victim or Witness 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 to attend criminal proceedings related to the victim's case~~. Additionally, a victim of a violent crime, as well as the victim's spouse or immediate family member (immediate family member includes parent, spouse, child or sibling of the employee) ~~of such victim, may have~~ reasonable time off from work to attend criminal proceedings related to the victim's case. An employee must give 48 hours advance notice to the city of their need to be absent unless it is impracticable, or an emergency prevents them from doing so. The city may request verification that supports the employee's reason for being absent from the workplace. [See also: Safety Leave under the Sick Leave Policy for additional information on leave benefits available to employees and certain family members].

Section 11.11 Job Related Injury or Illness

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 their~~ supervisor of the action taken. In the case of a serious emergency, 911 should 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.

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

Section 11.12 Pregnancy and Parenting Leave

All employees 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 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 should provide reasonable notice, which is at least 3 days. If the leave must be taken in less than three days, the employee should give as much notice as practicable.

Employees are required to use earned accrued leave (i.e., sick leave, vacation leave, etc.) 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.~~

Effective July 1, 2023, the city will inform employees of their parental leave rights at the time of hire and when an employee makes an inquiry about or requests parental leave.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting parental leave rights or remedies.

Section 11.13 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 Personnel Committee with the approval of the City Council.

Section 11.14 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.

Section 11.15 School Conference Leave

Effective July 1, 2023, any employee may take unpaid leave for up to a total of sixteen 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 disrupt unduly the operations of the city. Employees may choose to use vacation leave hours for this absence but are not required to do so.

Section 11.16 Bone Marrow/Organ Donation Leave

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, unless agreed to by the city, to undergo medical procedures to donate bone marrow or an organ. The 40 hours is over and above the amount of leave accrued time the employee has earned.

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

Effective July 1, 2023, an employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting bone marrow or organ donation leave rights or remedies.

Section 11.17 Elections / Voting

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off ~~without~~ with pay for purposes of serving as an election judge, provided ~~that~~ the employee gives the city at least twenty ~~(20)~~ days written notice, including 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 reduce the wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment. Thus, employees will be paid the difference between their pay as an election judge and their regular rate of pay for their normal workday.

The city reserves the right to restrict the number of employees 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. Effective July 1, 2023, employees may be absent from work for the time necessary to vote to include voting during the period allowed for voting in person before election day.

Section 11.18 Delegates to Party Conventions

An employee may be absent from work to attend any meeting of the state central committee or executive committee of a major political party if the employee is a member of the committee. The employee may attend any convention of a major political party delegate, including meetings

of official convention committees if the employee is a delegate or an alternate delegate to that convention.

Per the statutory requirement, the employee must give at least ten days written notice of their planned absence to attend committee meetings or conventions. Time away from work for this purpose will be considered unpaid unless the employee chooses to use vacation/PTO leave during their absence.

Section 11.19 Regular Leave without Pay

The Personnel Committee may authorize leave without pay for up to thirty days. Leave without pay for greater periods may be granted by the City Council.

~~Typically, employee benefits will not be earned by an employee while on leave without pay. However, the city's contribution toward health, dental and life insurance may be continued, if approved by the City Council, for leaves of up to ninety days when the leave is for medical reasons and FMLA has been exhausted.~~

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, sick leave, or vacation leave (annual leave). 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 (annual leave) based on actual hours worked.

Leave without pay hours will not count toward seniority and all accrued vacation leave and compensatory time 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 sick leave 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.

Employees receiving leave without pay in excess of thirty 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 Personnel Committee subject to approval of the City Council.

1 Note: "volunteer" firefighter may count as employees if paid at or near minimum wage. Given the employee eligibility requirements, even though all cities are covered by the FMLA, only employees in cities with more than 50 employees have the potential to qualify for FMLA protected leave. Thus, only cities with 50 or more employees generally include an FMLA policy in their personnel policies.

Section 11.20 Family and Medical Leave

The FMLA applies to all public agencies, including state, local and federal employers, and local education agencies (schools). To be eligible for FMLA leave, an employee must work for a covered employer and:

- have worked for that employer for at least 12 months; and
- have worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave; and
- work at a location where at least 50 employees are employed at the location or within 75 miles of the location.

The City of Emily does not employ 50 employees so employees do not qualify for FMLA protected leave. The employee calculation is based on employees earning minimum wage or above and excludes elected officials.

Section 11.21 Reasonable Work Time for Nursing Mothers

Nursing mothers and lactating employees will be provided reasonable paid break times (which may run concurrently with already provided break times) to express milk. The city will provide a clean, private and secure 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. An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting nursing rights or remedies.

Section 11.22 Light Duty/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. Light duty is evaluated by the Personnel Committee on a case-by-case basis. This policy does not guarantee assignment to light duty.

Such assignments are for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the Personnel Committee. The Personnel Committee reserves the right to determine when and if light duty work will be assigned.

When an employee is unable to perform the essential requirements of their job due to a temporary disability, they will notify the supervisor in writing as to the nature and extent of the disability and the reason why they are 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 light duty. Upon receipt of the written request, the supervisor is to forward a copy of the report to the Personnel Committee. 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 Personnel Committee whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis.

If the city offers a light duty 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 city will not,~~

however, require an employee who is otherwise qualified for protection under the Family and Medical Leave Act to accept a light duty assignment.

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

Section 11.23 Reasonable Accommodations to an Employee 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 without advice of a licensed health care provider or certified doula:

- More frequent or longer restroom, food, and water breaks.
- Seating; and/or
- Limits on lifting over 20 pounds.

Additionally, an employer must provide reasonable accommodations, including, but not limited to, temporary leaves of absence, modification in work schedule or job assignments, seating, more frequent or longer break periods and limits to heavy lifting to an employee for health conditions related to pregnancy or childbirth upon request, with the advice of a licensed health care provider or certified doula, unless the employer demonstrates the accommodation would impose an undue hardship on the operation of the employer's business. In accordance with state law, no employee is required to take a leave of absence for a pregnancy nor accept a pregnancy accommodation.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting reasonable accommodations pregnancy rights or remedies.

Section 11.24 Athletic Leave of Absence

An employee who qualifies as a member of the United State team for athletic competition on the world championship, Pan American, or Olympic team in a sport sanctioned by the International Olympic Committee, shall be granted a leave of absence without loss of pay or other benefits for the purpose of preparing for and engaging in the competition. In no event shall the paid leave exceed the period of official training camp and competition combined, or 90 calendar days a year, whichever is less. The employee shall provide documentation establishing their participation on said team and in said event.

Article XIII. DIVERSITY, EQUITY AND INCLUSION

Section 12.01 General

The city of Emily is committed to fostering, cultivating, and preserving a culture of diversity, equity and inclusion. Our policy is to be welcoming, safe, and equitable to all employees and members of the community. By embracing the diversity of our workforce and community, the city seeks to not only meet, but also exceed, our obligations under federal and state law. The goal of our policy is for the work environment to be free of harassment, discrimination, and retaliation. Furthermore, it is our belief that:

- We are more efficient when all are valued and included.

- We are more effective when we leverage our different ideas, backgrounds and identities.
- We are more responsive when we acknowledge and reflect the identity and experience of our residents and colleagues.

Section 12.02 Definitions within this section

Cultural Competence: The ability to interact effectively across difference. We acknowledge that a 'one size fits all' approach is not effective and actively seek ways to make our services accessible and culturally relevant.

Discrimination: Unfair treatment because of a protected class status.

Diversity: Recognizes the unique differences of all individuals. This includes the many apparent and non-apparent ways which people differ in their identity such as: age, gender and gender identity, race, ethnicity, national origin, language, religious beliefs, sexual orientation, veteran status, gender identity, mental or physical ability, marital status, family status, or educational background.

Equity: The principle of fairness by seeking to remove barriers and increase access to services. This includes understanding and acknowledging historical and ongoing inequities between groups of people and a commitment to actions that challenge those inequities.

Harassment: Unwelcome conduct that is based on a protected class status that is intimidating, hostile or abusive. This includes sexual harassment.

Inclusion: An environment that is built on respect and which creates a sense of belonging for all who live and work here. By being inclusive we acknowledge and value individual contribution as well as the background and identity of those with whom we work, partner, or serve.

Section 12.03 Policy Statement

It is the city's policy to respect culture and reduce bias in our workplace and service delivery.

The commitment to inclusion, diversity, and equity influences the work that is performed by the city, the workplace environment, relationships between employees, and relationships between the city and community. While individual employees have their own beliefs and values, performing work on behalf of the city requires upholding cultural competence and respect to ensure work occurs that not only meets, but also exceeds, our obligations under federal and state law.

The city of Emily values all diversity and recognizes individual protected-class status as defined under state and federal law and seeks to ensure equal opportunities in all phases of employment. The city expects each employee to cooperate to achieve this goal and personally stand behind the principles as defined within this policy.

All employees of the city are expected to act and perform their work professionally, including respecting cultural differences. Pursuant to the city’s Respectful Workplace Policy, discrimination, including harassment, will not be tolerated. Any employee found to have exhibited any inappropriate conduct or behavior may be subject to disciplinary action.

Employees who believe they have been subjected to any kind of discrimination that conflicts with this policy should follow the reporting procedures within the city’s Respectful Workplace Policy.

SEXUAL HARASSMENT PREVENTION

General

The city of Emily is committed to creating and maintaining a public service workplace free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment.

Definitions

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication 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.

Examples of inappropriate behaviors that are unacceptable and therefore prohibited, even if not unlawful in and of themselves include: unwanted physical contact; unwelcome sexual jokes or comments; sexually explicit posters or pinups; repeated and unwelcome requests for dates or sexual favors; sexual gestures or any indication, expressed or implied, that job security or any other condition of employment depends on submission to or rejection of unwelcome sexual requests or behavior. In summary, sexual harassment is the unwanted, unwelcome or repeated action of an individual against another individual, using sexual overtones.

Article XIII. SEXUAL HARASSMENT PREVENTION AND RESPECTFUL WORKPLACE

The intent of this policy is to provide general guidelines about conduct that is and is not appropriate in the workplace and other city-sponsored social events.

The city acknowledges this policy cannot possibly predict all situations that might arise, and also recognizes that some employees can be exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

Applicability

Maintaining a respectful public service work environment is a shared responsibility. This policy is intended to express to all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, elected officials and members of the public the expectations by the City of Emily for respectful workplace conduct both in the workplace and other city-sponsored social events.

Abusive Customer Behavior

While the city has a strong commitment to customer service, the city does not expect employees to accept verbal and other abuse from the public.

An employee may request that a supervisor intervene when a customer is abusive, or the employee may defuse the situation themselves, including professionally ending the contact.

If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor, the Personnel Committee, or the city attorney. Employees should leave the area immediately when violence is imminent unless their duties require them to remain (such as police officers). Again, employees must notify their supervisor, the Personnel Committee, or the city attorney about the incident as soon as possible.

Types of Disrespectful Behavior

The following behaviors are unacceptable and therefore prohibited, even if not unlawful in and of themselves:

Violent behavior:

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

Discriminatory behavior:

includes inappropriate remarks about or conduct related to a person's legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

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, considering 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 should request clarification from their supervisor or the Personnel Committee.

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, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about 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. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
- 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.

Names and Pronouns:

Every employee will be addressed by a name and by pronouns that correspond to the employee's gender identity. A court-ordered name or gender change is not required.

Employee Response to Disrespectful Workplace Behavior

All employees should feel comfortable calling their supervisor to request assistance should they not feel comfortable with a situation. If situations involve violent behavior call the police, ask the individual to leave the area, and/or take other reasonable action.

If employees see or overhear what they believe is a violation of this policy, employees should advise a supervisor, the Personnel Committee, or city attorney promptly.

Employees who believe disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. In the event the disrespectful behavior occurring involves the employee's supervisor, the employee should contact the Personnel Committee.

Step 1(a). If you feel comfortable doing so, professionally, 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 the Personnel Committee. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter.

In some situations, such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

Step 1(c). The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. It is vitally important you notify a supervisor, the Personnel Committee, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the Personnel Committee.

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 Personnel Committee, the mayor or the city attorney.

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 promptly to the Personnel Committee, who will determine whether an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

Step 1(a). 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 the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b). Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly. However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

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. Formal investigations will be prompt, impartial, and thorough. The person being interviewed may have someone of his/her own

choosing present during the interview. Typically, 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.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

Step 3. The supervisor must notify the Personnel Committee about the allegations (assuming the allegations do not involve a member of the Personnel Committee). For more information about what to do when allegations involve the Personnel Committee, the mayor, or a councilmember, see “Special Reporting Requirements” below.

Step 4. In most cases, as soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations, and the alleged violator will have the opportunity to answer questions and respond to the allegations. The City will follow any other applicable policies or laws in the investigatory process.

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 and to the extent permitted by the Minnesota Government Data Practices Act.

Step 7. The city will take reasonable and timely action, depending on the circumstances of the situation.

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.

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 Personnel Committee who will determine how to proceed in addressing the complaint as well as appropriate discipline.

If a member of the Personnel Committee 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.

If a councilmember is perceived to be the cause of a disrespectful workplace behavior incident involving city personnel, the report will be made to the Personnel Committee and referred to the city attorney. In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The independent investigator will report his/her findings to the City Council. The city will take reasonable and timely action, depending on the circumstances of the situation.

Pending completion of the investigation, the Personnel Committee may at their discretion take appropriate action to protect the alleged victim, other employees, or citizens.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

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).

Retaliation

Retaliation is strictly prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal or state employment discrimination laws will not be subject to retaliation.

Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor;
2. Personnel Committee;
3. Mayor or city councilmember
4. In the event an employee feels retaliation has occurred by a member of the Personnel Committee or the city council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the Personnel Committee, or if the complaint is against a member of the Personnel Committee to the city attorney, who will decide how to proceed in addressing the complaint.

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.

Article XIV. POSSESSION AND USE OF DANGEROUS WEAPONS

Possession or use of a dangerous weapon (see Article III for definitions) 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.

Article XV. SEPARATION FROM SERVICE

Section 15.01 Resignations

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 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 workdays may be considered as resignation without proper notice. **Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the city.**

Section 16.02 Severance Pay

Employees who leave the employ of the city in good standing by retirement or resignation will receive pay for 100 percent of unused earned and accrued vacation (annual leave).

Article XVI. DISCIPLINE

Section 16.01 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 Emily. 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 the city's personnel policies. The Personnel Committee will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

Section 16.02 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.

Section 16.03 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~~ **they perform**.

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:

(a) Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. All supervisors have the ability to issue oral reprimands without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice ~~that~~ the performance or behavior needs to change, and what the change must be. The supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

(b) Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected, or the behavior has not consistently improved in a reasonable period of time.

Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the Personnel Committee with prior approval from the City Council.

A written reprimand will: (1) state ~~what did happen~~ **happened**; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. ~~Employees' signatures do~~ **An employees' signature does** not mean the employee agrees with the reprimand. Written reprimands will be placed in the employee's personnel file.

(c) Suspension With or Without Pay

The Personnel Committee may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the

City Council, except in the case of veterans. Qualified veterans, who have completed their initial probationary period, will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

(d) Demotion and/or Transfer

An employee may be demoted or transferred if attempts at resolving an issue have failed and the Personnel Committee determines a demotion or transfer to be the best solution to the problem. The employee must be qualified for the position to which they are being demoted or transferred. The City Council must approve this action.

(e) Salary

An employee's salary increase may be withheld, or the salary may be decreased due to performance deficiencies.

(f) Dismissal

The Personnel Committee, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with city standards.

If the disciplinary action involves the removal of a qualified veteran, who has completed **his/her** their initial probationary period, the appropriate hearing notice will be provided, and all rights will be afforded the veteran in accordance with Minnesota law.

Article XVII. GRIEVANCE PROCEDURE

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 date at which the incident allegedly occurred, 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 twenty-one days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within seven calendar 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 date at which the incident allegedly occurred, 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 Personnel Committee within seven days after the supervisor's response is due. The Personnel Committee will respond to the employee in writing within seven calendar days. The decision of the Personnel Committee 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.

Section 17.01 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.

Article XVIII. EMPLOYEE EDUCATION & 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.

Section 18.01 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:

Section 18.02 Job-Related Training & 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.

CLE 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 unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

The Personnel Committee are responsible for determining job-relatedness and approving or disapproving training and conference attendance.

Section 18.03 Job-Related Meetings

Attendance at professional meetings costing \$ [redacted] or less and directly related to the performance of the employee's work responsibilities do not require the approval of the Personnel Committee. Advance supervisor approval is required to ensure adequate department coverage.

Section 18.04 Request for Participation in Training & 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.

Budgeted requests totaling more than \$ [redacted] must be approved by the employee's 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 should be forwarded to accounting for prompt payment.

Section 18.06 Not to Exceed Figure

Payment of training and/or conference expenses must not exceed the total budgeted training amount \$ _____ per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive approval by the City Council.

Section 18.07 Compensation for Travel & 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.

Section 18.08 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 Council 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.

Section 18.09 Travel & 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~~ In no case will city funds be used to pay for, or reimburse, for events sponsored by or affiliated with political parties. 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. The city will also not reimburse employees for the costs for travel of family members.

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 City Council, not to exceed the allowable IRS rate.

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 of \$10.00 per breakfast, \$12.50 per lunch, and \$15.00 per dinner per day will be allowed.

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.

Article XIX. OUTSIDE EMPLOYMENT

The potential for conflicts of interest is lessened when individuals employed by the city of Emily 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 Personnel Committee. Any city employee accepting employment in an outside position determined by the Personnel Committee 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 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.
- No employee will work for another employer, or for his/her own business, while using paid sick leave from the city for those same hours.
- Departments may establish more specific policies as appropriate, subject to the approval of the Personnel Committee.

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.

Article XX. DRUG FREE WORKPLACE

In accordance with federal law, the city of Emily 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. The unlawful manufacture, distribution, possession, or use of ~~a-controlled substance~~ drugs 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.
3. 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.
4. 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.

Article XXI. 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 workday 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.

Article XXII. CELLULAR PHONE USE

This policy is intended to define acceptable and unacceptable uses of city issued cellular telephones. Its application is to ensure cellular phone usage is consistent with the best interests 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 city employees exercise the highest standards of propriety in their use.

Section 22.01 General Policy

Cellular telephones are 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. Nothing in this policy will limit supervisor discretion to allow reasonable and prudent personal use of such telephones or equipment provided:

- Its use in no way limits the conduct of work of the employee or other employees.
- No personal profit is gained, or outside employment is served.
- All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving and who are issued a cellphone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area. Hands-free equipment will be provided with city-issued phones to facilitate the provisions of this policy.
- Reading/sending text messages, making or receiving phone calls, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
 - In accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions. See above “City Driving Policy” for more information on reporting driver’s license restrictions”.

Cell phone records about city business are subject to the Minnesota Government Data Practices Act. If a data request were received, the city would determine what information is public data and what information is private data and would review the employee’s phone records and possibly need access to the phone itself in order to provide the data being requested. Therefore, the best practice is to limit usage of personal cell phones for city business to that which is truly necessary or be prepared to produce your cell phone and the associated records if needed.

~~An employee will not be reimbursed for business-related calls without prior authorization from his/her supervisor.~~ Supervisors may also prohibit employees from carrying their own personal cell phones during working hours if it interferes with the performance of their job duties.

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 consent of the supervisor.~~

Personal calls will be made or received only when absolutely necessary during working hours. Such calls must not interfere with working operations and are to be completed as quickly as possible.

~~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.~~

Section 22.02 Procedures

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

Section 22.03 Responsibility

The Personnel Committee will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement within their departments.

Article XXIII. SAFETY

The health and safety of each employee of the city and the prevention of occupational injuries and illnesses are of primary importance to the city.

To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor.

Section 23.01 Reporting Accidents and Illnesses

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~~ **their** 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.

Section 23.02 Safety Equipment/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.

Per MN Statue 5207.0100 safety vests/high visibility apparel will be provided and must comply with appropriate ANSI/ISEA 107-2004 standards. Each safety vest/high visibility apparel will be printed with "City of Emily". Safety vests/high visibility apparel shall be worn by all Maintenance Department employees and other employees as necessary when performing, inspecting, or observing work within the right-of-way of the road or when performing or

inspecting work that would cause the employee to periodically be exposed to vehicle traffic or construction equipment. Employees must properly care for, clean and store assigned vests/high visibility apparel and monitor the condition of the vests/high visibility apparel and replace as needed.

The City will purchase one Class 2 or higher winter jacket (once every 3 years) for each full-time Maintenance Department employee, five Class 2 t-shirts (annually) for each full-time Maintenance Department employee, and three Class 2 t-shirts (annually) for each Seasonal Maintenance Department employee.

Section 23.03 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.

Section 23.04 Access to Gender-Segregated Activities and Areas

With respect to all restrooms, locker rooms or changing facilities, employees will have access to facilities corresponding to their affirmed gender identity, regardless of their sex at birth. The city maintains separate restroom and/or changing facilities for male and female employees and allows employees to access them based on their gender identity.

In any gender-segregated facility, any employee who is uncomfortable using a shared facility, regardless of the reason, will, upon the employee's request, be provided with an appropriate alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, the city will not require a transgender or gender diverse employee to use a separate, nonintegrated space, unless requested by the transgender or gender diverse employee, because it may publicly identify or marginalize the employee as transgender.

Under no circumstances may employees be required to use sex-segregated facilities inconsistent with their gender identity.

Approved by the Emily City Council on the 12th day of December 2023.

Tracy Jones, Mayor

Cari Johnson, MCMC, City Clerk/Treasurer

City of Emily Personnel Policy

Purpose

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Emily. They should not be construed as contract terms for any city employees. No supervisor or City representative has any authority to enter into any agreement for employment for any specific period of time, or to make any agreement contrary to this provision. Nothing in this Personnel Policies, or in other City of Emily policies which may be communicated to the employee, constitutes a contract of employment for any city employee. The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the City Council. These policies supersede all previous personnel policies. As an employee, you are responsible for complying with current city policy at all times.

Scope

Except as otherwise specifically provided, these policies apply to all employees of the City, whether paid or volunteer, except the following:

1. Elected officials
2. City attorney
3. Members of City boards, commissions, and committees
4. Consultants and contractors
5. 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. If any specific provisions of the personnel policies conflict with any written employment agreement with an Employee, the written employment agreement with that Employee will prevail. Union employees are encouraged to consult their collective bargaining agreement first for information about their employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

These policies serve as an information guide to help employees become better informed and to make their experience with the city more rewarding.

EEO Policy Statement

The City of Emily is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Emily will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

Data Practices Advisory

Employee records are maintained in a location designated by the city clerk. 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.

Personal Communications and Use of Social Media

It is important for city employees to remember that the personal communications of employees may reflect on the city, especially if employees are commenting on city business. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

1. Remember what you write or post is public and will be so for a long time. It may also be spread to large audiences. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, from home and on home computers.
2. The City of Emily expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
3. If you publish something related to city business, identify yourself and use a disclaimer such as, "I am an employee of the City of Emily. However, these are my own opinions and do not represent those of the City of Emily."
4. City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
5. Personal social media account name or email names should not be tied to the city (e.g., City of Emily Cop).

CITYWIDE WORK RULES & CODE OF CONDUCT

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 the City of Emily. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

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

1. Perform assigned duties to the best of their ability at all times.

2. Render prompt and courteous service to the public at all times.
3. Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
4. Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
5. Report any and all unsafe conditions to the immediate supervisor.
6. Maintain good attendance while meeting the goals set by the personnel committee.

Employee may hold outside employment so long as it does not impact the ability to effectively perform their duties.

Attendance & Absence

The operations and standards of service in the City of Emily 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 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 the event of an unexpected absence, employees should call their supervisor before the scheduled starting time and keep in mind the following procedures:

1. If the supervisor is not available at the time, the employee should 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.
2. Failure to use the established reporting process will be grounds for disciplinary action.
3. 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.
4. 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.
5. 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.

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 Personnel Committee. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

Tracking of City Owned Vehicles (As per MN Statute 626A.35)

The city reserves the right to install Global Positioning System (GPS) tracking devices in any of its vehicles whether owned or leased. The tracking policy applies to all regular, seasonal, and temporary city employees who drive city vehicles. The tracking policy is designed and intended to provide vehicle location and other information while in the field and enhance employee safety and security; lower maintenance costs through better preventative and predictive maintenance schedules; improve fuel economy, reduce vehicle idling, optimize vehicle utilization; and improve driver behavior while operating a city vehicle. The GPS device will allow the city to record location, route, speed, ignition status and other important diagnostic information of its vehicles. Employees should understand that GPS data may be used to make decisions regarding employee use of equipment based solely, or in part, on GPS data. Employees should also understand that they have no expectations of privacy when using city vehicles.

All Police Department vehicles, all Maintenance Department vehicles, and all snowplow trucks will be equipped with GPS tracking devices. Under the direction of the City Council GPS tracking software will be managed by the clerk's office. Reports will be made available upon request by Council Member or applicable department head.

All city vehicles that are GPS equipped will have a sticker affixed in a prominent location in every vehicle stating, "Notice: This equipment is monitored by GPS".

City's goals and objectives for GPS device data collection includes educating and informing employees about idling, speeding, out of service area travel, odd hours/days travel and how to become safer and more fuel-efficient drivers. Information may be used during investigation into allegations of employee misconduct or in cases of substandard performance.

Employees who purposely disable, tamper or remove the GPS device shall be subject to disciplinary action, up to and including termination of employment.

The City Council is responsible for the development, establishment, and maintenance of procedures to implement and support this policy, and to ensure the policy is in compliance with applicable laws, City ordinances, policies and rules.

Drivers of City Owned Vehicles (Except fire and first response vehicle drivers)

- The city will conduct a Motor Vehicle Records (MVR) check annually for any employee required to drive a city owned vehicle.
- The city will conduct a MVR check as part of pre-employment screening for all prospective new hires who will be required to drive a city owned vehicle.

Commercial Driver's License

If a driver is required by the city to hold a Commercial Driver's License (CDL), they MUST register with the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse.

- The city will conduct an annual **Limited** query with the FMCSA Clearinghouse for all employees that hold a CDL as a job requirement.
- The city will conduct a **Full** query with the FMCSA Clearinghouse for all prospective employees that hold a CDL as a job requirement.

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 should 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. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

Conflict of Interest

City employees 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 should consult with the Personnel Committee.

Falsification of Records

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.

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.

Smoking

The City of Emily 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 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.

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 only during their breaks and lunch, and only in areas designated for that purpose.

DEFINITIONS

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

Authorized Hours

The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee's supervisor.

Benefits

Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.

Employee

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

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). These amounts may change if required by law.

Full-Time Employee

Employees who are required to work thirty-two (32) or more hours per week year-round in an ongoing position.

Part-Time Employee

Employees who are required to work less than thirty-two (32) hours per week year-round in an ongoing position.

Pay Period

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

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.

Seasonal Employee

Employees who work only part of the year (6 month 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.

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.

Probationary Period

A six-month period 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, unless covered by a collective bargaining agreement stating a different time frame.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the city, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance right

Nothing in this policy handbook shall be construed to imply that after completion of the probationary period, an employee has any vested interest or property right to continued city employment.

Time served in temporary, seasonal, volunteer or interim positions are not considered part of the probationary period. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked, and the probationary period will be extended by the length of time taken.

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.

EMPLOYEE RECRUITMENT & SELECTION

Scope

The Personnel Committee will manage the hiring process for positions within the city. 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. All hires will be made according to merit and fitness related to the position being filled.

Features of the Recruitment System

The Personnel Committee will determine if a vacancy will be filled through an open recruitment or by promotion, 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.

Application for employment will generally be made by 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 Personnel Committee. 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 Personnel Committee. 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.

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

Pre-Employment Medical Exams

The Personnel Committee 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). The physician will notify the Personnel Committee that a candidate either is or is not 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 Personnel Committee 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.

Selection Process

The selection process will be a cooperative effort between the Personnel Committee 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 City of Emily needs.

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 Personnel Committee will determine the level of background check to be conducted based on the position being filled.

ORGANIZATION

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 position. In addition, job descriptions may also describe the benefits offered and potential career path opportunities as a means to entice a qualified pool of applicants. 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 Personnel Committee or designee and the hiring supervisor to ensure the job description is an accurate reflection of the position and 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 Council.

Assigning and Scheduling Work

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the Personnel Committee.

HOURS OF WORK

Work Hours

Employee work schedules and opportunities to work remotely will be established by supervisors with the approval of the Personnel Committee. The regular workweek for employees is five days in addition to a lunch period, Monday through Friday, except as otherwise approved by the Personnel Committee in accordance with the customs and needs of the individual departments.

Meal Breaks and Rest Periods

A paid fifteen (15) minute break is allowed within each four (4) consecutive hours of work. An unpaid thirty (30) minute lunch period is provided when an employee works six (6) or more consecutive hours. 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.

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. They will be paid according to the time reported on their time sheets and Maintenance Department timecards. 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 immediate termination.

All Maintenance Department employees must use the provided time clock for punch in and out at the beginning and end of every workday and the beginning and end of every lunch period.

Emily Volunteer Fire Department and Emily Volunteer First Response Unit Members

It is a great benefit to the community to allow employees who are members of the Fire Department or First Response Unit to respond to calls during work hours. The Fair Labor Standards Act (FLSA) regulates employees holding multiple positions with the same employer if an employee works more than 40 hours in one workweek. When a full-time nonexempt employee responds to a fire call or first responder call during City work hours, the employee is no longer considered a volunteer per Code of Federal Regulations (C.F.R.) Title 29, Part 553.101 and must be paid overtime at no less than time and one-half their regular rates of pay for all hours worked in excess of 40 in a workweek. (See also 29 C.F.R. Part 541 regarding first responders.) A city may establish an extended workweek for firefighters. An extended firefighter workweek would be the maximum cumulative hours that may be worked in multiple City positions before overtime is earned. The City shall define a longer workweek for firefighters as one calendar month, with 212 hours per 28 days plus an additional 7.57 hours per remaining calendar days, if applicable. (Example: 219.57 hours for day 29, 227.14 hours for day 30, and 234.71 hours for day 31) The City shall claim the small fire department exemption for any City employee who performs fire protection work if the City has fewer than five employees who perform fire protection work during the workweek.

Effective December 1, 2022, full-time nonexempt employees may continue to respond to a fire or first responder call during work hours, taking into consideration the workload of the employee's department. Employees shall not contribute to PERA and receive service credit for a Fire Relief pension at the same time due to Minnesota law pension credit requirements.

- Full-time nonexempt employee/volunteer firefighter:
 - **Respond to Calls During Work Hours:**
 - The employee will be paid their regular rate of pay,
 - contribute to PERA,
 - will not receive the applicable per call rate as set on the Fee Schedule Ordinance to prevent double-dipping,
 - will not receive service credit for their Fire Relief pension.
 - The employee must clock out to respond while earning overtime wages.
 - **Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours Up to and Including Maximum Defined Firefighter Workweek Hours:**
 - The employee will receive the applicable per call, per meeting, per drill/training rates as set on the Fee Schedule Ordinance,
 - will receive service credit for their Fire Relief pension,
 - will not contribute to PERA.
 - **Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours AND Over Maximum Defined Firefighter Workweek Hours AND Fewer Than 5 Firefighters Worked:**
 - The City will claim the small department exemption.
 - The employee will receive the applicable per call, per meeting, per drill/training rates as set on the Fee Schedule Ordinance,
 - will receive service credit for their Fire Relief pension,
 - will not contribute to PERA.
 - **Respond to Calls or Attend Meetings or Drills/Trainings After Work Hours AND Over Maximum Defined Firefighter Workweek Hours AND 5 or More Firefighters Worked:**
 - The City will determine a weighted average hourly rate and pay overtime hours at one and one-half times that rate per the Procedure for Paying Maintenance Department/Firefighter Wages for Responding to Fire Calls.
 - The employee will not contribute to PERA for the overtime,
 - will not receive the applicable per call, per meeting, or per drill/training rates as set on the Fee Schedule Ordinance to prevent double-dipping,
 - will receive service credit for each call responded to for their Fire Relief pension.
 - Overtime will be calculated after the end of every month and paid on the first Wednesday of the following month.
 - **Compensatory Time Option:** Each employee may choose to accrue up to 240 hours of compensatory time (equivalent to 160 hours worked) in lieu of overtime wages. After an employee has accrued maximum compensatory time, the employee must be paid in cash for overtime worked. If the City pays cash wages for overtime hours rather than in compensatory time, the wages must be paid at one and one-half times the employee's regular rate of pay. An employee is permitted to use accrued compensatory time within a reasonable period after requesting use, provided doing so would not unduly disrupt the operations of the employer. Compensatory time earned in lieu of overtime must be paid when an employee leaves the City, which is usually at a higher rate of pay.

- Full-time nonexempt employee/volunteer first responder:
 - The employee will be paid their regular rate of pay and contribute to PERA when responding to calls during work hours, but will not receive the applicable per call rate as set on the Fee Schedule Ordinance to prevent double-dipping.
 - When responding to calls after work hours or attending meetings or drills/trainings, the City will determine a weighted average hourly rate for each week and pay overtime hours at one and one-half times that rate per the weighted average calculation in the Procedure for Paying Maintenance Department/Firefighter Wages for Responding to Fire Calls.
 - The employee will not contribute to PERA for the overtime.
 - will not receive the applicable per call, per meeting, or per drill/training rates as set on the Fee Schedule Ordinance to prevent double-dipping.
 - Overtime will be calculated after the end of every month and paid on the first Wednesday of the following month.

Part-time nonexempt employees/volunteer firefighters and/or first responders shall be covered by the above conditions as applicable. Seasonal Part-Time employees who are members of the Fire Department or First Response Unit shall not respond to calls during work hours.

City employees need to abide by the applicable Drug and Alcohol Testing Policy for each position.

Overtime

The City of Emily has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime.

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 paycheck for Social Security and Medicare (the city matches the employee's Social Security and Medicare withholding for many employees). For information about PERA eligibility and contribution requirements, contact the clerk's office.

HOLIDAYS

All regular full-time and part-time employees who have been in the employment of the city for more than thirty (30) days shall be entitled to the following official holidays observed by the city:

- | | |
|---|-----------------------------------|
| 1. January 1 | New Year's Day |
| 2. 3 rd Monday in January | Martin Luther King Day |
| 3. 3 rd Monday in February | Washington and Lincoln's Birthday |
| 4. Last Monday in May | Memorial Day |
| 5. June 19 | Juneteenth |
| 6. July 4 | Independence Day |
| 7. 1 st Monday in September | Labor Day |
| 8. November 11 | Veterans' Day |
| 9. 4 th Thursday in November | Thanksgiving Day |
| 10. 4 th Friday in November | Day after Thanksgiving |
| 11. December 25 | Christmas Day |
| 12. Floater | Employee's Choice |

All full time employees and regular part time employees are entitled to time off with full pay on holidays. The City shall be closed for business on each such holiday, but employees may be required to work on paid holiday when the nature of their duties or other conditions require. Work performed on the above-mentioned holidays shall be compensated at 1.5 times the employee's straight hourly rate. When employee is required to work on any above-mentioned holiday they shall be compensated up to the equivalent in hours to the employee's regularly scheduled workday. (Example: Employee works 4 hours on a holiday on a day regularly scheduled to work 8 hours is paid 4 hours wage at 1.5 times the straight hourly rate and 4 hours at straight hourly rate.)

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.

Full-time employees will receive 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. Part-time employees will receive prorated holiday pay based on the number of hours normally scheduled. Any employee on a leave of absence without pay from the city is not eligible for holiday pay.

LEAVES OF ABSENCE

Depending upon an employee's situation, more than one form of leave may apply during the same period of time (e.g., the Family and Medical Leave Act is likely to apply during a workers' compensation absence). An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise stated, all paid time off, taken under any of the city's leave programs, must be taken consecutively, with no intervening unpaid leave. The city will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

Sick Leave

Sick leave is authorized absence from work with pay, granted to qualified full-time and part-time employees. Sick leave is a privilege, not a right.

Employees are to use this paid leave only when they are unable to work for medical reasons and under the conditions explained below. Sick leave does not accrue during an unpaid leave of absence.

1. Full-time employees will accumulate sick leave at a rate of 4 hours per calendar month.
2. Part-time employees regularly scheduled to work at least 20 hours per week will accrue sick leave on a pro-rated basis of the full-time employee schedule, but not less than 2 hours per calendar month.
3. Part-time employees regularly scheduled to work fewer than 20 hours per week will not earn or accrue sick leave.
4. Temporary and seasonal employees will not earn or accrue sick leave.
5. Sick leave may be used only for days when the employee would otherwise have been at work. It cannot be used for scheduled days off.

Carryover

Employees may carryover unused accrued sick leave to the following year up to a maximum of 480 hours, prorated for the amount of hours the employee works per week: 480 hours for full-time employees working 40 hours per week (100%), 384 hours for full-time employees working 32 hours per week (80%), and 312 hours for part-time employees working 26 hours per week (65%).

Sick leave may be used as follows:

1. When an employee is unable to perform work duties due to illness or disability (including pregnancy).
2. For medical, dental or other care provider appointments.
3. When an employee has been exposed to a contagious disease of such a nature that his/her presence at the work place could endanger the health of others.
4. To care for the employee's injured or ill children, including stepchildren or foster children, for such reasonable periods as the employee's attendance with the child may be necessary.
5. To take children, or other family members to a medical, dental or other care provider appointment.
6. To care for an ill spouse, father, father-in-law, mother, mother-in-law, stepparent, grandparent, grandchild, sister or brother.

Safety leave [*New July 1, 2014*] Employees are authorized to use sick leave for reasonable absences for themselves or relatives (employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent) who are providing or receiving assistance because they, or a relative, is a victim of sexual assault, domestic abuse, or stalking. Safety leave for those listed, other than the employee and the employee's child, is limited to 160 hours in any 12-month period.

After accrued sick leave has been exhausted, vacation leave may be used upon approval of the Personnel Committee, to the extent the employee is entitled to such leave.

To be eligible for sick leave pay, the employee will:

1. Communicate with his/her immediate supervisor, as soon as possible after the scheduled start of the work day, for each and every day absent;
2. Keep his/her immediate supervisor informed of the status of the illness/injury or the condition of the ill family member;
3. Submit a physician's statement upon request.

After an absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.

Any work restrictions must be stated clearly on the return-to-work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision. Sick leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.

The city has the right to obtain a second medical opinion to determine the validity of an employee's workers' compensation or sick leave claim, or to obtain information related to restrictions or an employee's ability to work. The city will arrange and pay for an appropriate medical evaluation when it is required by the city.

Any employee who makes a false claim for sick leave will be subject to discipline up to and including termination.

Employees must normally use sick leave prior to using paid vacation prior to an unpaid leave of absence during a medical leave.

In the event of termination of employment, every employee will receive a lump sum payment for all accrued sick time up to a prorated maximum: 240 hours for full-time employees. *Sick leave will normally not be approved after an employee gives notice that he or she will be terminating employment. Exceptions must be approved by the Personnel Committee.*

Sick leave cannot be transferred from one employee to another.

Vacation Leave

Vacation Leave Schedule

Full-time Employees

Years of Service	Annual Accrual on January 1*
One Year	40 Hours
Two Years	80 Hours
Five Years	120 Hours
Ten Years	120 Hours, plus 8 additional hours per year up to a maximum of 160 hours

* Earned vacation will be granted on January 1 of each year per the above schedule unless the employee is a new hire (see below).

**The Fair Labor Standards Act (FLSA) does not require payment for time not worked, such as vacations, sick leave, or holidays (Federal or otherwise). These benefits are a matter of agreement between an employer and an employee (or the employee’s representative).

New Hires

Employees hired during the preceding year will not be granted vacation leave until the one year anniversary of their hire date, but will accrue vacation leave according to the Vacation Leave Schedule. After a new hire’s one year anniversary the employee would be granted the earned vacation leave from the prior year. On January 1 following the new hire anniversary, the employee would be granted the accrued vacation earned through the prior year, which would be a prorated amount.

Example:

Hire FT Employee November 15, 2021	
1 year Anniversary November, 15 2022	40 hours of vacation granted
January 1, 2023	Prorated amount of vacation granted for November 16, 2022 through December 31, 2022
January 1, 2024	80 hours of vacation granted

Eligibility

Full-time employees will earn vacation leave in accordance with the above schedule.

Part-time employees who work at least 20 hours per week on a regular basis will accrue vacation leave on a prorated basis of the full-time employee schedule for the corresponding year of service.

Part-time employees who work less than 20 hours per week on a regular basis, temporary and seasonal employees will not earn or accrue vacation leave.

Accrual Rate

Full-time employees may accrue vacation leave to a maximum of 360 hours.

For the purpose of determining an employee's vacation accrual rate, years of service will include all continuous time that the employee has worked at the city (including authorized unpaid leave). Employees who are rehired after terminating city employment will not receive credit for their prior service unless specifically negotiated at the time of hire.

Carryover

Employees may carryover unused accrued vacation to the following year up to a maximum of 80 hours.

Earnings and Use

An employee will not earn any vacation leave for any pay period unless he/she is employed by the city on the last scheduled work day of the pay period. Requests for vacation must be received at least forty-eight (48) hours in advance of the requested time off. This notice may be waived at the discretion of the supervisor or Personnel Committee. Vacation can be requested in increments as small as one hour up to the total amount of the accrued leave balance.

Funeral Leave

Employees will be permitted to use up to three (3) consecutive working days, with pay, as funeral leave upon the death of an immediate family member. This paid leave will not be deducted from the employee's vacation or sick leave balance.

The actual amount of time off, and funeral leave approved, will be determined by the Personnel Committee depending on individual circumstances (such as the closeness of the relative, arrangements to be made, distance to the funeral, etc.).

Medical Certification

Good attendance is an essential job function for all city employees. If unplanned absences are excessive, 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.

Returning to Work After a Medical Absence

After a medical absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness or medical condition and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation.

Any work restrictions must be stated clearly on the return-to-work form. Employees who have been asked to provide such a statement may not be allowed to return to work until they comply with this provision. Sick leave may be denied for any employee required to provide a doctor's statement until such a statement is provided.

The city has the right to obtain a second medical opinion to determine the validity of an employee's workers' compensation or sick leave claim, or to obtain information related to restrictions or an employee's ability to work. The city will arrange and pay for an appropriate medical evaluation when it has been required by the city.

Unpaid Leave

Unpaid leaves may be approved in accordance with the city personnel policies. Employees must normally use all accrued annual leave prior to taking an unpaid leave.

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. 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.

Employees will be granted up to ten (10) working days of unpaid leave whose immediate family member is a member of the United States armed forces who has been injured or killed while engaged in active service. The 10 days may be reduced if an employee elects to use appropriate accrued paid leave.

Unless the leave would unduly disrupt the operations of the city, employees whose immediate family member, as a member of the United States armed forces has been ordered into active service in support of a war or other national emergency, will be granted an unpaid leave of absence, not to exceed one day's duration in any calendar year, to attend a send-off or homecoming ceremony for the mobilized service member.

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 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.

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.

Victim or Witness 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 (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. [See Safety Leave under the Sick Leave Policy for additional information on leave benefits available to employees and certain family members].

Job Related Injury or Illness

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 should 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.

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

Elections / Voting

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 twenty (20) days written notice.

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.

SEXUAL HARASSMENT PREVENTION

General

The City of Emily is committed to creating and maintaining a public service work place free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment.

This policy statement is intended to make all employees, volunteers, members of boards and commissions, and elected officials sensitive to the matter of sexual harassment, to express the city's strong disapproval of unlawful sexual harassment, to advise employees against this behavior and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

Definition

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication 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.

Examples of inappropriate behaviors that are unacceptable and therefore prohibited, even if not unlawful in and of themselves include: unwanted physical contact; unwelcome sexual jokes or comments; sexually explicit posters or pinups; repeated and unwelcome requests for dates or sexual favors; sexual gestures or any indication, expressed or implied, that job security or any other condition of employment depends on submission to or rejection of unwelcome sexual requests or behavior. In summary, sexual harassment is the unwanted, unwelcome or repeated action of an individual against another individual, using sexual overtones.

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.

SEPARATION FROM SERVICE

Resignations

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. 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 as resignation without proper notice.

DISCIPLINE

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 Emily. 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 the city's personnel policies. The Personnel Committee will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

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.

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

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. All supervisors have the ability to issue oral reprimands without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The

supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time.

Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the Personnel Committee with prior approval from the City Council.

A written reprimand will: (1) state what did happen; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. Employees' signatures do not mean the employee agrees with the reprimand. Written reprimands will be placed in the employee's personnel file.

Suspension With or Without Pay

The Personnel Committee may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans, who have completed their initial probationary period, will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

Dismissal

The Personnel Committee, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with city standards.

If the disciplinary action involves the removal of a qualified veteran, who has completed his/her initial probationary period, the appropriate hearing notice will be provided and all rights will be afforded the veteran in accordance with Minnesota law.

EMPLOYEE EDUCATION & 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.

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:

Job-Related Training & 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.

CLE 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 unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

The Personnel Committee are responsible for determining job-relatedness and approving or disapproving training and conference attendance.

Request for Participation in Training & 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 must be approved by the employee's 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 should be forwarded to accounting for prompt payment.

Compensation for Travel & 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.

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 Council 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.

Travel & 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 City Council, not to exceed the allowable IRS rate.

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

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.

DRUG FREE WORKPLACE

In accordance with federal law, the City of Emily 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. 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.
3. 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.
4. 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.

SAFETY

The health and safety of each employee of the city and the prevention of occupational injuries and illnesses are of primary importance to the city. To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor.

Reporting Accidents and Illnesses

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.

Safety Equipment/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.

Per MN Statute 5207.0100 safety vests/high visibility apparel will be provided and must comply with appropriate ANSI/ISEA 107-2004 standards. Each safety vest/high visibility apparel will be printed with "City of Emily". Safety vests/high visibility apparel shall be worn by all Maintenance Department employees and other employees as necessary when performing, inspecting, or observing work within the right-of-way of the road or when performing or inspecting work that would cause the employee to periodically be exposed to

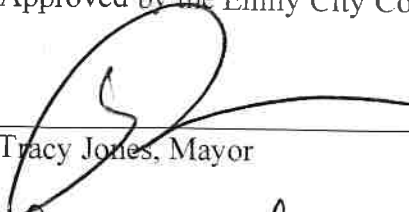
vehicle traffic or construction equipment. Employees must properly care for, clean and store assigned vests/high visibility apparel and monitor the condition of the vests/high visibility apparel and replace as needed.

The City will purchase one Class 2 or higher winter jacket (once every 3 years) for each full-time Maintenance Department employee, five Class 2 t-shirts (annually) for each full-time Maintenance Department employee, and three Class 2 t-shirts (annually) for each Seasonal Maintenance Department employee.


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.

Approved by the Emily City Council on the 14th day of February, 2023.



Tracy Jones, Mayor



Cari Johnson, MCMC, City Clerk/Treasurer

Personnel Policy Template, LMC Model Policy

Find more information on personnel policies in the Personnel Policies Chapter of the League's Human Resources Reference Manual.

Below you will find a Table of Contents to help navigate through the model personnel policy. Simply hold the Ctrl button on your keyboard and click on the heading with your mouse to bring you directly to the specific section.

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HUMAN RESOURCES & BENEFITS INFORMATION
PERSONNEL POLICY TEMPLATE
Updated July 27, 2023

- ✓ This template was developed with the personnel management of a Plan “A” city in mind.
 - For Plan “B” cities, authority in the area of personnel management (especially hiring and firing) is generally given to the city manager.
 - For Home Rule Charter cities, authority in the area of personnel management is typically defined in the city’s charter language.
- ✓ “City administrator” is used throughout this template. This language may need to be revised to recognize other management positions at a city.
- ✓ “Supervisor” is used throughout this template. This language may need to be revised to recognize other positions of authority at a city.
- ✓ The template does not provide cites for any state law or federal regulation, etc. Instead, such references are to the name of the particular law or to “Minnesota law” in general. The idea is this will create less need for update if a statutory cite is changed. Cities are encouraged to use the Personnel Policy Chapter of the online HR Reference Manual to find actual citations.

 **This icon marks places where the city must customize the model policy. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

 **When updating policies, some employers have found personnel policies a valuable tool to promote the city’s “brand” or important values to employees. For example, some cities will incorporate photos of important city landmarks, a visual timeline of a city’s history with important milestones noted, or highlight in an infographic with the city’s mission, vision and values throughout the document.**

Article I. INTRODUCTION

Section 1.01 Purpose



The city will want to include sample disclaimer language in the Employee Handbook. Listed Below are three samples for inclusion; a city will want to use one within the Handbook.

- (1) The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the city of _____. They should not be construed as contract terms for any city employees. No supervisor or city representative has any authority to enter into any agreement for employment for any specific period of time, or to make any agreement contrary to this provision. Nothing in this Personnel Handbook, or in other city policies which may be communicated to the employee, constitutes a contract of employment for any city employee. The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the city. These policies supersede all previous personnel policies. As an employee, you are responsible for complying with current city policy at all times. Except where noted otherwise, the city administrator or his/her designee is charged with ensuring compliance with these personnel policies.
- (2) It is the purpose of these policies to establish a uniform and equitable system of personnel administration for employees of the city of _____. Their provisions do not establish terms and shall not be construed as contractual provisions. They are not intended to be all-inclusive or to cover every situation that may arise. These policies may be amended at any time at the sole discretion of the city and they will supersede all previous personnel policies. Except where noted otherwise, the city administrator or his/her designee is charged with ensuring compliance with these personnel policies. Revisions and amendments shall become effective upon approval by the (City Council for most cities; City Manager for Plan B form of government and some Home Rule Charter cities).
- (3) This handbook provides information to you, as an employee of the city of _____, about certain terms and conditions of your employment. It is not, and should not be considered, an employment contract. Your continued employment, and the conditions of the employment, is solely within the discretion of the City of _____. The handbook summarizes major policies and programs related to your employment. Additional information about many of these policies and programs is available from the city's administration office. Please take advantage of those resources to assure you are fully aware of your rights and responsibilities as an employee of the city of _____. Except where noted otherwise, the city administrator or his/her designee is charged with ensuring compliance with these personnel policies.

Except as otherwise prohibited by law, the city of _____ has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.



Only the City Council (can add city manager in a Plan B or Home Rule Charter form of government if applicable) has the right to alter the “at will” agreement.

Section 1.02 Scope

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

1. Elected officials
2. City attorney
3. Members of city boards, commissions, and committees
4. Consultants and contractors
5. Volunteers, except as specifically noted for paid-on-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 employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

These policies serve as an information 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 those rules will be further explained, and enforcement discussed with the employee by the immediate supervisor.

Section 1.03 EEO Policy Statement

The city of _____ is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, selection, lay-off, disciplinary action, termination, compensation and selection for training. The city of _____ will not discriminate against any employee or job applicant on the basis of race (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists) color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

Section 1.04 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.

Section 1.05 Media Requests

All city employees have a responsibility to help communicate accurate and timely information to the public 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 reporting 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.

Except for routine events and basic information readily available to the public, all requests for interviews or information from the media are to be routed through the city administrator. No city employee is authorized to speak on behalf of the city without prior authorization from the city administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites. When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the city administrator of the request.
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 and approved by the city administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: "The city finished street cleaning on 16 streets in the northwest corner of the city this past week" instead of "The city is doing a great job with street cleaning this year!" Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following 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.

- Notify the city administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for city business. Employees should be aware data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

Section 1.06 Personal Communications and Use of Social Media

It is important for city employees to remember the personal communications of employees may reflect on the city, especially if employees are commenting on city business or commenting on issues that implicate their city employment. As city representatives, employees share in the responsibility of earning and preserving the public's trust in the city. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to a larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- The city expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race (including traits associated with race, including, but not limited to, hair texture and hairstyles such as braids, locs and twists) national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.

- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the city, it would be best to identify yourself and use a disclaimer such as, “These are my own opinions and do not represent those of the city of _____.”
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city’s logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the city (e.g., (city name) Cop).

Article II. CITYWIDE WORK RULES & CODE OF CONDUCT

Section 2.01 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 the _____. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

Honesty is an important organizational attribute to our city. Therefore, any intentional misrepresentation of facts or falsification of records, including personnel records, medical records, leaves of absence documentation or the like, will not be tolerated. Further, dishonesty in city positions may preclude workers from effectively performing their essential job duties. As just one example, a police officer with a credibility issue under a Brady/Giglio designation very likely will be excluded from providing testimony for court cases thereby creating an employment strain where an employee cannot effectively perform the essential functions of the job. Any violations will result in corrective action, up to and including termination.



As in all cases of discipline, city employers will want to proceed with caution and consult with legal counsel prior to taking any adverse employment action. Disciplining employees due to suspected dishonesty relating to a complaint in an employment investigation has yielded some complicated case decisions, so this simply reinforces the need for cities to work with legal counsel.

The following are job requirements for every position at the city of _____. 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.
- 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 an employee's supervisor.
- Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication and compassion.

Section 2.02 Attendance & Absence

The operations and standards of service in the city of _____ requires employees be at work unless valid reasons warrant absence, or an employee has a position approved to work remotely. In order for a team to function efficiently and effectively, employees must fully understand the goals set for them and the time 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 the event of an unexpected absence, employees should 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 should leave a message with a telephone number where they 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 days. Individual departments may establish more specific reporting procedures.

For budgetary and confidentiality reasons, non-exempt employees (eligible for overtime pay) are not authorized to take work home or work through lunch without prior approval from their supervisor.

Section 2.03 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 their name and the serial number (if applicable) or identifying information about the equipment with their 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. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

Section 2.04 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 should 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. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.



If a city is interested in “Dress for your Day” type policy language, consider the following: The city of _____ Dress for your Day policy allows for non-uniformed employees to use their best judgment when deciding what to wear to work every day, with some basic guidelines. The idea is each employee should consider what their workday looks like and dress accordingly.

For example, employees are allowed to wear casual clothing on workdays when they do not have meetings with residents or other outside third parties. Employees are still expected to wear clothing appropriate for an office environment, and traditional business attire is always acceptable.

There may be days when residents or visitors are expected at city facilities and all staff may be required to forgo Dress for your Day and required to wear business casual or business attire. These days will be announced in advance so employees can plan accordingly.

In all instances, clothing and appearance must be neat, clean, not ripped, heavily frayed or worn, and not expose an excessive amount of skin.

The following are examples of clothing and shoe choices that are never acceptable, but it is not an exhaustive list. When in doubt, consult with _____ (Administration, HR or manager).

- Clothing and/or accessories including offensive/inappropriate images or words, including images/words that are discriminatory or sexual
- Sweatpants, yoga pants and other exercise apparel
- Leggings unless combined with a top that reaches at least mid-thigh
- Beach wear
- Shorts
- Overalls
- Very short skirts
- Shirts with writing or large logos (unless city or affiliated business organization logo)
- Spaghetti-strap tops or dresses unless covered by a jacket or sweater
- Crop tops, tank tops, halter tops or any clothing showing midriffs
- Sheer or revealing clothing

- Hats or caps
- Sports jerseys (unless part of a planned employee event)
- Flip-flops, house slippers, moccasins, Crocs shoes

Employees are allowed to wear jeans clean and free of rips, tears, fraying and not excessively tight or revealing.

Employees who need an accommodation associated with a protected status such as religion or disability should speak with _____ (Administration or HR) to obtain approval to deviate from this policy.

Section 2.05 Conflict of Interest

City employees 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, they should consult with the city administrator.

Section 2.06 Falsification of Records

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.



Optional additional wording:

Whistleblower Protections

An employee of the city who, in good faith, reports an activity they consider to be illegal or dishonest to one or more of the parties may have whistleblower protections. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate city management officials are charged with these responsibilities.

Examples of illegal or dishonest activities include violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

If an employee has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee is to contact their immediate supervisor or Human Resources. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing may be subject to discipline up to and including termination.

It is the city's legal responsibility to protect employees who make a complaint of employment discrimination, who serve as a witness or participate in an investigation, or who are exercising their rights when requesting religious or disability accommodation from retaliation.

Whistleblower protections are provided in two important areas – confidentiality and against retaliation; insofar as consistent with Minnesota Data Practices, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. The city will not retaliate against a whistleblower. This includes but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact Human Resources immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing.

Section 2.07 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. Any personal long-distance call costs will be paid for by the employee. Please refer to the cell phone policy for information on use of cellular phones.

Section 2.08 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.

Section 2.09 Smoking

The city of _____ 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 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.

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 21 and over are allowed to smoke only during their breaks and lunch, and only in areas designated for that purpose.



[Minn. Stat. § 609.685](#)

Article III. DEFINITIONS

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

Section 3.01 Authorized Hours

The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee’s supervisor.

Section 3.02 Benefits

Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.

Section 3.03 Benefit Earning Employees

Employees who are eligible for at least a pro-rated portion of city-provided benefits. Such employees must be year-round employees who work at least 20 hours per week on a regular basis.

Section 3.04 Core Hours

The core hours all employees (exempt and non-exempt) are expected to work are 9 a.m. to 3:30 p.m., Monday through Friday. Police, fire, and public works employees do not have core hours and work the schedules established by their supervisors.

Section 3.05 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.

Section 3.06 Direct Deposit

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

Section 3.07 Employee

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

Section 3.08 Exempt Employee

Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act.

Section 3.09 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). These amounts may change if required by law.

Section 3.10 Fiscal Year

The period from Jan. 1 to Dec. 31.

Section 3.11 Full-Time Employee

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



Optional additional wording: 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 health care reform law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended.

Section 3.12 Hours of Operation

The city's regular hours of operation are Monday through Friday, from 8 a.m. to 5 p.m.

Section 3.13 Management Employee

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

Section 3.14 Non-Exempt Employee

Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.

Section 3.15 Part-Time Employee

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



Optional additional wording: 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 health care reform law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended.

Section 3.16 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.

Section 3.17 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.

Section 3.18 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.

Section 3.19 Reclassify

Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities.

Section 3.20 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.

- Optional additional wording: In order to comply with health care reform law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended or, in some rare instances, may be offered health insurance to comply with federal health care reform laws and regulations while avoiding associated penalties.

Section 3.21 Service Credit

Time worked for the city. An employee begins earning service credit on the first day worked for the city. Some forms of leave will create a break in service.

Section 3.22 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.

- Optional additional wording: In order to comply with health care reform law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended or, in some rare instances, may be offered health insurance.

Section 3.23 Training/Probationary Period

A twelve-month period at the start of employment with the city (or at the beginning of a promotion, reassignment, or transfer) designated as a period within which to learn the job, unless covered by a collective bargaining agreement stating a different time frame. 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.

An employee serving the initial probationary period may be disciplined at the sole discretion of the city, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Nothing in this policy handbook shall be construed to imply after completion of the probationary period, an employee has any vested interest or property right to continued city employment.

Time served in temporary, seasonal, volunteer or interim positions are not considered part of the probationary period. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked, and the probationary period will be extended by the length of time taken.

- Optional additional wording: Training begins on your first day of employment with an orientation process in which you will learn about city policies and procedures, take a tour of the city, and meet co-workers. Then you will begin to learn your job by training with your supervisor or a co-worker. In the first few months, you will meet with your supervisor frequently to discuss your progress and at six months, you will have a formal review.

Section 3.24 Transfer

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

Section 3.25 Weapons

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

Section 3.26 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, parks and recreation department).

Article IV. EMPLOYEE RECRUITMENT & SELECTION**Section 4.01 Scope**

The city administrator or a designee will manage the hiring process for positions within the city. 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. All hires will be made according to merit and fitness related to the position being filled.

Section 4.02 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.

Application for employment will generally be made online or by 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.

Section 4.03 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 another appropriate job-related exam. For example:


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

- “In-basket” exercise for an administrative support position (sets up real-life scenarios and items likely to 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 planning director position, for example.
- Scenarios of situations police officers are likely to encounter on the job testing the candidate’s decision-making skills (can be role played or multiple-choice questions).

Internal recruitments will be open to any city employee who: (1) has successfully completed the initial training period; (2) meets the minimum qualifications for the vacant position; and (3) currently is and for the past year has been in good standing with the city.

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.

 Optional additional wording: If you have any questions about whether your qualifications might meet the established minimums, contact the HR department to ask. In many cases the city will consider alternative experience if it is substantially equivalent to the qualification being required.

 **Note:** If the city employs commercial motor vehicle drivers subject to DOT pre-employment drug and alcohol testing rules and/or if it is interested in conducting Non-DOT pre-employment testing, which is subject to special rules and restrictions under Minnesota law, please refer to LMC information memo “[Drug and Alcohol Testing Toolkit for the City Workplace](#)” and its Model Policies on “[DOT Drug and Alcohol Testing for Commercial Drivers](#)” and “[Non-DOT Drug and Alcohol Testing and the Drug-Free Workplace Act.](#)”

Section 4.04 Pre-Employment Medical Exams

The city administrator or designee may determine 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). The physician will notify the city administrator or designee 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 and/or alcohol 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.

Section 4.05 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 city of _____ needs.

Section 4.06 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.

Section 4.07 Training/Probationary Period

The training/probationary 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 twelve months in duration, but may be extended by, for example, an unpaid leave of absence.

Article V. ORGANIZATION

Section 5.01 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 position. In addition, job descriptions may also describe the benefits offered and potential career path opportunities as a means to entice a qualified pool of applicants. 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 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 the position's duties and responsibilities are accurately reflected. All revisions are reviewed and must be approved by the city administrator.

Section 5.02 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.


Section 5.03 Job Descriptions and Classifications

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

Section 5.04 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.

 Alternative wording: The city administrator will make decisions about layoffs based on the city's needs and on the performance, knowledge, skills, and abilities of employees first, and seniority will be used as a secondary consideration. The city administrator will submit a list of employees to be laid off to the City Council for final approval.

 Note language to attract/retain workforce 2025: The "alternative language" above is designed to appeal more to help attract and retain workforce 2025 employees, who generally see performance as a more legitimate basis for determining layoffs. However, the city is likely not able to use this criterion with unionized employees because the union contract will generally specify seniority as the primary factor for layoffs. In addition, seniority-based decisions are easier to defend if the city is sued.

If the city decides to use the alternative language, it should be prepared to implement a system that can be defended in a possible lawsuit or legal proceeding.

Article VI. HOURS OF WORK

Section 6.01 Work Hours

Employee work schedules and opportunities to work remotely will be established by supervisors with the approval of the city administrator. The regular workweek for employees is five eight-hour days in addition to a lunch period, Monday through Friday, except as otherwise approved by the city administrator in accordance with the customs and needs of the individual departments.



Optional additional wording: Part-time, seasonal, and temporary positions:

In order to comply with law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended. Effective DATE, YEAR, employees in part-time and temporary positions will not be permitted to work more than 28 hours/week, including hours worked and paid leave (such as annual leave or holiday leave). All shifts, including schedule trades or picked-up shifts, must be pre-approved by supervisor. Unpaid furloughs may be imposed on employees who exceed 28 hours/week. Working a shift without prior approval may result in discipline, up to and including termination of employment. In some rare instances, a part-time, seasonal, or temporary employee may be offered health insurance in order to comply with federal health care reform laws and regulations.

Section 6.02 Core Hours

To ensure employee availability and accountability to the public the city serves, all full-time employees (exempt and non-exempt) are to be at work or available to the public and co-workers during the hours of 9 a.m. to 3:30 p.m., Monday through Friday, unless away from the work site for a work-related activity or on approved leave.

Section 6.03 Meal Breaks and Rest Periods

A paid fifteen-minute break is allowed within each four consecutive hours of work. An unpaid thirty-minute lunch period is provided when an employee works eight or more consecutive hours. 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 whose duties involve traveling throughout the city may stop along the assigned route at a restaurant or other public accommodation for their fifteen-minute break. Exceptions must be approved by the supervisor or city administrator.

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.

Section 6.04 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 leave early). Employees not reporting to work for reasons of personal safety will not normally have their pay reduced as a result of this absence. Employees will be allowed to use accrued vacation time or compensatory time, or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments.

In the event the city closes due to weather or other public emergency, see Article XII: Leaves of Absence section 12.01 for Earned Sick and Safe Leave.

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 supervisor or the city administrator.

Article VII. COMPENSATION

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.

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, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for disclosing their 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) 284-5075 or (800) 342-5354.

Article VIII. PAYCHECKS OR DIRECT DEPOSIT (select one or the other)

Section 8.01 Paychecks

Paychecks will not be given to anyone other than the person for whom they were prepared, unless the person has a note signed by the employee authorizing the city to give the other person the check. Checks will be given to the spouse, or another appropriate immediate family member, in the case of a deceased employee.

Employees are responsible for notifying _____ of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc.



Alternative wording: Paychecks will be distributed every two weeks/weekly/monthly. Distribution of paychecks to city employees is to be accomplished in a timely manner using accurate, consistent procedures.



Alternative wording: When paydays fall on a holiday, checks are normally issued the day before the holiday.

Section 8.02 Direct Deposit

As provided for in Minnesota law, all employees 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.

Section 8.03 Improper Deduction and Overpayment Policy

If an employee believes that an improper deduction or overpayment, or another type of error, has been made, they should immediately contact their supervisor. If the city determines it has made an improper deduction from a paycheck, it will reimburse the employee for the improper amount deducted and take good faith measures to prevent improper deductions from being made in the future.

In cases of improper overpayments, employees are required to promptly repay the city in the amount of the overpayment. The employee can write a personal check or authorize a reduction in pay to cover the repayment. The city will not reduce an employee's pay without written authorization by the employee. Once the overpayment has been recovered in full, the employee's year to date earnings and taxes will be adjusted (so that the year's Form W-2 is correct) and the paying department will receive the corresponding credit. When an overpayment occurs, the repayment must be made within the same tax year.

In the exceptional situation where the overpayment occurs in one tax year and is not discovered until the next year, the overpayment must be repaid in the year it is discovered, but there will be additional steps and paperwork required. Any overpayments not repaid in full within the calendar year of the overpayment are considered "prior year overpayments" and the employee must repay not only for the net amount of the overpayment, but also the federal and state taxes the city has paid on their behalf. The city is able to recover the overpaid Social Security and Medicare taxes. Accordingly, the city will not require the employee to repay those taxes provided the employee provides a written statement that he/she will not request a refund of the taxes. The overpayment amount will remain taxable in the year of the overpayment since the employee had access to the funds. The employee is not entitled to file an amended tax return for the year but may be entitled to a deduction or credit with respect to the repayment in the year of repayment. Employees should contact their tax advisors for additional information.

Section 8.04 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. 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 immediate termination.

Section 8.05 Overtime / Compensatory Time

The city of _____ has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime. The city administrator will determine whether each employee is designated as “exempt” or “non-exempt” from earning overtime. In general, employees in executive, administrative, and professional job classes are exempt; all others are non-exempt.

Section 8.06 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 40 in one workweek. Vacation, sick leave, and paid holidays do not count toward “hours worked.” Compensation will take the form of either time-and-one-half pay or compensatory time. Compensatory time is paid time off at the rate of one-and-one-half hours off for each hour of overtime worked.

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.



To avoid constructive receipt implications, consider the following language options: [However, the employee may make an irrevocable election prior to the beginning of a year to have all overtime earned in the year to be recorded as compensatory time in lieu of payment]. [However, the employee may make an election prior to working the overtime hours to have future overtime earned to be recorded as compensatory time in lieu of payment. Such an election is irrevocable with respect to overtime hours worked but may be changed for future overtime hours]. [However, the employee may indicate on his/her timesheet that the overtime earned is to be recorded as compensatory time in lieu of payment. In this case, all compensatory earned during a year will be paid to the hourly by the end of the year at the hour pay rate the employee is earning at that time].

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

All compensatory time will be marked as such on official time sheets, both when it is earned and when it is used.



For cities without any elective cash outs of accrued comp. time, could consider the following language:

The Finance 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.

Section 8.07 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 extra pay for the hours worked over 40 in one workweek.



Please note there is an accompanying section labeled “Leave Policy for Exempt Employees” a city may want to consider including to help address time reporting issues for Exempt employees.

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

- The employee is in a position that does not earn vacation or personal leave and is absent for a day or more for personal reasons other than sickness or accident.
- To offset compensation received for military pay. If an employee works part of the week in military service, the city still must pay the entire week salary to the employee, but the city could offset the amount of the military pay for the week against the employee’s salary.
- The employee is in a position that earns sick leave, 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 is either not yet qualified to use the paid leave or he/she has exhausted all of his/her paid leave.
- The employee is absent for a full work week and, for whatever reason, the absence is not charged to paid leave (for example, a situation where the employee has exhausted all of his/her paid leave or a situation where the employee does not earn paid leave).
- 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 paid leave and is absent for a partial day due to personal reasons, illness, or injury, but:

- Paid leave has not been requested or has been denied.
- Paid leave 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 of _____ 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 of _____ 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. If an employee thinks that a wage deduction was made in error, please contact [Human Resources] promptly.

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.

Section 8.08 Leave Policy for Exempt Employees

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including evening meetings and/or on-call hours. The normal hours of business for exempt staff are Monday through Friday, 8 a.m. to 5 p.m., plus evening meetings as necessary.



While a city certainly has discretion on how to handle Exempt employees' timesheet reporting, it is a fairly common practice to not require leave for less than four-hour absence:

Exempt employees are required to use paid leave when on personal business or away from the office for four hours or more, on a given day. Absences of less than four hours do not require use of paid leave as it is presumed that the staff member regularly puts in work hours above and beyond the normal 8 a.m. to 5 p.m. Monday through Friday requirement. Exempt employees must communicate their absence to the city administrator or his/her designee.

If one of the above employees is regularly absent from work under this policy and it is found 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 forty 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.

Article IX. PERFORMANCE REVIEWS

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. Performance reviews are to be scheduled on a regular basis, at least annually. The form, with all required signatures, will be retained as part of the employee's personnel file.

During the training/probationary period, informal performance meetings should 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 what needs improvement.

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.

Article X. BENEFITS

Section 10.01 Health, Dental, Life Insurance

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



Alternative wording: The city makes a competitive monthly contribution toward group health, dental, and life insurance benefits. As an employee of the city of _____, employee received regular pay for their services employees provide. The other part of the city's total compensation is the value or benefits available to you and, if applicable, your family. Your medical [could also list other insurance benefits here] insurance is a key part of your total compensation.



Note on language to attract/retain workforce 2025: Cities should highlight the value proposition of public benefits as part of the individual's overall compensation plan.

Employees in the workforce now share their compensation with peers in a much more open way. Public benefits often add great value and can be used to attract and retain them. Their value should be clear as part of the formal job offer process.



Optional additional wording: In accordance with federal health care reform laws and regulations, while avoiding penalties, the city will 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. The amount to be contributed and the type of coverage will be determined annually by the City Council.

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

Section 10.02 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 paycheck for Social Security and Medicare (the city matches the employee's Social Security and Medicare withholding for many employees). For information about PERA eligibility and contribution requirements, contact _____.

Section 10.03 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
- 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 months of receiving tuition reimbursement from the city.

Tuition reimbursement for an individual employee will not exceed \$_____ per year.

Article XI. HOLIDAYS

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

New Year's Day	Indigenous Peoples' Day
Martin Luther King, Jr. Day	Labor Day
Presidents Day	Veterans Day
Memorial Day	Thanksgiving Day
Juneteenth (effective June 19, 2023) Friday after Thanksgiving	
Independence Day	Christmas Day



Cities have the option of determining whether Indigenous Peoples' Day and the Friday after Thanksgiving shall be observed city holidays. Where it is determined that Indigenous Peoples' Day or the Friday after Thanksgiving is not a city observed holiday, then public business may be conducted on those days.

Official holidays commence at the beginning of the first shift of the day on which the holiday is observed and continue for twenty-four 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 closed on holidays.

Full-time employees will receive pay for official holidays at their normal straight time pay rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Part-time employees will receive prorated holiday pay based on the number of hours normally scheduled. 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 employees required to work on a holiday will be for hours worked on the “actual” holiday as opposed to the “observed” holiday.



To promote workplace inclusion efforts by recognizing employees' varied and religious and cultural backgrounds, some organizations are moving towards additional flexibility with wording such as:


“Employees wanting to observe holidays, traditions and observances other than those officially observed by the city, may request to trade out up to three holidays in the list above with ‘personal holidays’ to celebrate dates meaningful to the employee. Approval of these requests are dependent upon the employees’ duties and the feasibility of the employee working on the official city holiday. The up to three floating holidays must be used as close as possible to the official observance by the employee but must be used within one week of the official date. Floating holidays require advance notice. Ideally, at least a month in advance, but at least two weeks ahead of the observance. Employees will not be eligible for premium pay when working any city observed holidays the employee has requested to exchange for personal holidays off from work.”

Article XII. LEAVES OF ABSENCE


Depending upon an employee's situation, more than one form of leave may apply during the same period of time (e.g., the Family and Medical Leave Act is likely to apply during a worker's compensation absence). An employee will need to meet the requirements of each form of leave separately. Leave requests will be evaluated on a case-by-case basis.

Except as otherwise stated, all paid time off, taken under any of the city's leave programs, must be taken consecutively, with no intervening unpaid leave. The city will provide employees with time away from work as required by state or federal statutes, if there are requirements for such time off that are not described in the personnel policies.

Section 12.01 Earned Sick and Safe Leave

 ***Effective January 1, 2024, Earned Sick and Safe time is a requirement for all MN employers with one or more employees to provide paid leave benefits as described below to all eligible employees. Employers may choose to allow employees to accrue more than the maximum hours provided below but are not required to do so. Cities providing Earned Sick and Safe time to employees under a paid time off policy that may be used for the same purpose and under the same conditions that meets or exceeds the minimum standards of this policy, are not required to provide additional earned sick and safe time. Thus, MN Earned Sick and Safe Leave will not preempt local paid sick leave city ordinances. However, because city ordinances and leave policies vary, attention to the details of Minnesota law is important. To that end, some organizations may find it helpful to make a side-by-side comparison of their existing sick leave policies with this model language to more readily discern where enhancements to policies are required, and where city policies are richer than state law.***

“Earned Sick and Safe Leave” is paid time off earned at one hour of Earned Sick and Safe for every 30 hours worked by an employee, up to a maximum of 48 hours of sick and safe leave per year. The hourly rate of Earned Sick and Safe Leave is the same hourly rate an employee earns from employment with the city. This specific leave applies to all employees (including temporary and part-time employees) performing work for at least 80 hours in a year for the city.

 ***The city will need to clearly define in the policy how the 12-month period is calculated whether that be for example, a calendar year, the city's fiscal year or 12-months based on an employee's work anniversary.***

 ***Cities will want to refer to LMC's Paycheck Memo for updated required earning statement requirements.***

(a) Earned Sick and Safe Leave Use

The leave may be used as it is accrued in the smallest increment of time tracked by the city's payroll system (_____ list amount here, but it cannot be more than four hours) for the following circumstances:

- An employee's own:
 - Mental or physical illness, injury or other health condition
 - Need for medical diagnosis, care or treatment, of a mental or physical illness
 - injury or health condition

- Need for preventative care
- Closure of the employee's place of business due to weather or other public emergency
- The employee's inability to work or telework because the employee is prohibited from working by the city due to health concerns related to the potential transmission of a communicable illness related to a public emergency, or seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and the employee has been exposed to a communicable disease or the city has requested a test or diagnosis.
- Absence due to domestic abuse, sexual assault, or stalking of the employee provided the absence is to:
 - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
 - Obtain services from a victim services organization
 - Obtain psychological or other counseling
 - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking
- Care of a family member:
 - With mental or physical illness, injury or other health condition Who needs medical diagnosis, care or treatment of a mental or physical illness, injury or other health condition Who needs preventative medical or health care Whose school or place of care has been closed due to weather or other public emergency When it has been determined by health authority or a health care professional that the presence of the family member of the employee in the community would jeopardize the health of others because of the exposure of the family member of the employee to a communicable disease, whether or not the family member has actually contracted the communicable disease
- Absence due to domestic abuse, sexual assault or stalking of the employee's family member provided the absence is to:
 - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking
 - Obtain services from a victim services organization
 - Obtain psychological or other counseling
 - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking


(b) For Earned Sick and Safe Leave purposes, family member includes an employee's:

- Spouse or registered domestic partner
- Child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis

- Sibling, step sibling or foster sibling
- Biological, adoptive or foster parent, stepparent or a person who stood in loco parentis when the employee was a minor child
- Grandchild, foster grandchild or step grandchild
- Grandparent or step grandparent
- A child of a sibling of the employee
- A sibling of the parent of the employee or
- A child-in-law or sibling-in-law
- Any of the above family members of a spouse or registered domestic partner
- Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship
- Up to one individual annually designated by the employee

(c) Advance Notice for use of Earned Sick and Safe Leave

If the need for sick and safe leave is foreseeable, the city requires seven days' advance notice. However, if the need is unforeseeable, employees must provide notice of the need for Earned Sick and Safe time as soon as practicable. When an employee uses Earned Sick and Safe time for more than three consecutive days, the city may require appropriate supporting documentation (such as medical documentation supporting medical leave, court records or related documentation to support safety leave). However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation may include a written statement from the employee indicating that the employee is using, or used, Earned Sick and Safe Leave for a qualifying purpose. The city will not require an employee to disclose details related to domestic abuse, sexual assault, or stalking or the details of the employee's or the employee's family member's medical condition. In accordance with state law, the city will not require an employee using Earned Sick and Safe leave to find a replacement worker to cover the hours the employee will be absent.

 *State law requires an employer provide notice to all employees regarding Earned Sick and Safe Leave rights on January 1, 2024, or at the start of an employee's employment, whichever is later. The Minnesota Department of Labor's website states a sample employee notice is forthcoming. In the employee notification and personnel policies, cities will want to be sure to define how their 12-month period is calculated, employee Earned Safe and Sick Leave rights, the amount of leave available and how employees may use it, requirements for reasonable notification procedures, and list the prohibitions on retaliation. . If a copy of the written policy has not been provided to an employee, an employer shall not deny the use of earned sick and safe time to the employee on that basis.*

Employers must maintain the confidentiality of Earned Sick and Safe records, medical certifications, histories and documents information pertaining to domestic abuse, sexual assault or stalking, and any statement from the employee about the need for leave. Medical records should be maintained confidentially and apart from personnel files.

Per the statute, employees may request the city to destroy or return records under Earned Sick and Safe Leave that are older than three years prior to the current calendar year.

(d) Carry Over of Earned Sick and Safe Leave

Employees are eligible for carry over accrued but unused Earned Sick and Safe time into the following year, but the total of Earned Sick and Safe Leave carry over hours shall not exceed 80 hours.



Alternatively, the city may wish to avoid the carry over by providing eligible employees with one of these options:

- *48 hours of “front loaded” Earned Sick and Safe Leave for the year, available for the employee’s immediate use and then pay out any accrued but unused Earned Sick and Safe Leave at the end of the year at the employee’s hourly rate of pay, OR*
- *80 hours of Earned Sick and Safe Leave for the year, available for the employee’s immediate use, without any pay out to the employee for accrued but unused Earned Sick and Safe Leave.*

Other than a city elected payout as described above, there is no requirement under statute to pay out any accrued but unused accrued Earned Sick and Safe Leave.

(e) Retaliation prohibited

The city shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting Earned Sick and Safe Leave rights, requesting an Earned Sick and Safe Leave absence, or pursuing remedies. Further, use of Earned Sick and Safe Leave will not be factored into any attendance point system the city may use. Additionally, it is unlawful to report or threaten to report a person or a family member’s immigration status for exercising a right under Earned Sick and Safe Leave.

(f) Benefits and return to work protections

During an employee’s use of Earned Sick and Safe Leave, an employee will continue to receive the city’s employer insurance contribution as if they were working, and the employee will be responsible for any share of their insurance premiums.

An employee returning from time off using accrued Earned Sick and Safe Leave is entitled to return to their city employment at the same rate of pay received when their leave began, plus any automatic pay adjustments that may have occurred during the employee’s time off. Seniority during Earned Sick and Safe Leave absences will continue to accrue as if the employee has been continually employed.

When there is a separation from employment with the city and the employee is rehired again within 180 days of separation, previously accrued Earned Sick and Safe Leave that had not been used will be reinstated. An employee is entitled to use and accrue Earned Sick and Safe Leave at the commencement of reemployment.

Section 12.02 Vacation Leave

The city believes that vacation is important to the health and well-being of our employees and as such, provides paid vacation for eligible employees for rest and recuperation.

Vacation Leave Schedule

Years of Service	Annual Accrual
? Years	? Days
? Years	? Days
? Years	? Days
? Years	? Days

(a) Eligibility

Full-time employees will earn vacation leave in accordance with the above schedule. Part-time employees who work at least 20 hours per week on a regular basis will accrue vacation leave on a prorated basis of the full-time employee schedule.

Part-time employees who work less than 20 hours per week on a regular basis, temporary and seasonal employees will not earn or accrue vacation leave.



Note on language to attract/retain workforce 2025: The city may want to find a way to monetize the value of vacation time. Public entities typically provide more vacation to their employees than other employers, and workforce 2025 employees generally value their “freedom” or vacation time highly.

(b) Accrual Rate

For the purpose of determining an employee’s vacation accrual rate, years of service will include all continuous time that the employee has worked at the city (including authorized unpaid leave). Employees who are rehired after terminating city employment will not receive credit for their prior service unless specifically negotiated at the time of hire.

(c) Earnings and Use

After six months of service, vacation leave may be used as it is earned, subject to approval by the employee’s supervisor. Unless approved by the City Manager/City Administrator, vacation leave will not be earned during an unpaid leave of absence.

An employee will not earn any vacation leave for any pay period unless they are employed by the city on the last scheduled workday of the pay period. Further, vacation leave will stop accruing as of the effective date of termination. Requests for vacation must be received at least forty-eight) hours in advance of the requested time off. This notice may be waived at the discretion of the supervisor and city administrator.

Vacation can be requested in increments as small as one hour up to the total amount of the accrued leave balance. Vacation leave is to be used only by the employee who accumulated it. It cannot be transferred to another employee. Employees may accrue vacation leave up to a maximum of one-and-a-half (1-1/2) times the employee’s annual accrual rate. No vacation will be allowed to accrue in excess of this amount without the approval of the City Council. Vacation leave cannot be converted into cash payments except at termination.



In light of the 2021 *Hall v. City of Plainview Case*, a city will want to review their vacation or PTO separation payment language with their legal counsel prior to adoption to ensure the language is specific and clear regarding when payouts will or will not occur for separating employees. A general disclaimer is insufficient.

(d) Vacation Separation Payout

Full-time employees will be paid accrued, unused vacation, earned through the last date of active employment, subject to applicable caps as noted above, (and applicable taxes withheld) following termination of employment. The rate of pay will be the employee’s base rate of pay at the employee’s termination date. Employees have the option of directing those dollars into a 457 deferred compensation plan (subject to IRS maximum deferral regulations and Minnesota law). In the event of the employee’s death, earned, unused vacation time will be paid to the employee’s surviving spouse directly, (if there is not personal representative of the estate appointed) up to statutory limits.

(e) Unpaid Leave

Unpaid leaves may be approved in accordance with the city personnel policies. Employees must normally use all accrued annual leave prior to taking an unpaid leave.



Some cities find it helpful to allow employees to retain some balance of leave before going on unpaid Parenting or Family Medical Leaves. To this end, the wording below provides some sample wording:

If the leave qualifies under Parenting Leave or Family and Medical Leave, the employee may retain a balance of forty hours when going on an unpaid leave. Any exceptions to this policy must be approved by the city administrator.



If a city wishes to address insurance continuation for a non-FMLA unpaid leave, here are some optional language choices to consider:

[Employees may continue on the city’s group insurance coverages during the period of unpaid leave but shall be responsible for paying one hundred percent (100%) of the premium costs].

OR

[An employee on unpaid non-FMLA leave will be offered COBRA and any other legally required benefits continuation.

In order to continue your benefits, you will be required to formally elect COBRA/any other legally required continuation coverage in order to stay on the applicable insurance plans. In the calendar month an employee transitions from paid to unpaid leave status, the city will continue full employer contribution toward benefits and the employee will remain responsible for their normal contribution, either through payroll deduction or separate payment to Human Resources. The city will not contribute to insurance costs beginning the first of the following calendar month. The employee may continue to be covered by group medical, dental, and life insurance, under applicable state and federal law and as allowed by the terms of each plan but will be responsible for paying 100% of the premium costs.

When you move into unpaid leave status and there is no paycheck, you will be required to submit monthly payments to Human Resources by the 1st day of each month of the leave. If the payment is more than 30 days late, your health and other coverage may be terminated for the remainder of the leave.

If you lose coverage or have elected COBRA during your leave, we will reinstate you as an active participant upon your return from leave, according to the terms of each plan.

Premium costs shall be pro-rated hourly for any unpaid leave that is less than a full calendar month].

OR


[Premium costs shall be pro-rated hourly for any unpaid leave that is less than a full calendar month.

An employee on unpaid non-FMLA leave will begin eligibility for COBRA coverage if they are on unpaid leave longer than two calendar weeks. In the month an employee transitions from paid to unpaid status, the employee will be responsible for paying the pro-rated portion of their monthly insurance premiums for the time they are on unpaid leave. The city will pro-rate the city contribution toward benefits that month as well. The city will not contribute to insurance costs beginning the first of the month after an unpaid leave begins. The employee may continue to be covered by group medical, dental and life insurance, under applicable state and federal law and as allowed by the terms of each plan but will be responsible for paying 100% of the premium costs.]


Other Benefits

Benefit accruals, such as vacation and holiday pay benefits, will be suspended at the beginning of the first full month of unpaid leave and will resume upon your return to active employment.

(f) Annual Leave Conversion

 Note: This section includes three alternative conversion programs that do not result in constructive receipt.

Annual leave will be eligible for conversion to a special-pay 457 deferred compensation plan on an hour-for-hour basis (subject to the applicable maximum under the Internal Revenue Code) annually in accordance with the following conditions. Up to 40% of the annual leave balance, not to exceed eighty (80) hours, may be converted each year provided the employee has used at least 30% of his/her annual accrual during the current calendar year and has a balance of at least 176 hours.

 Note: Under Minn. Stat. §356.24, a city may make only two types of contributions to a 457(b) plan – matching contributions and contributions of accrued leave and severance. With respect to the latter type of contribution, the contribution must be made to a plan that is wholly and solely funded by contributions of leave and severance. A contribution of accrued leave without the option of receiving cash in lieu of the contribution would be treated as an employer contribution under federal law.

Although it is not clear, such a contribution likely would also be treated as an employer contribution for purposes of Section 356.24.

To ensure the city has authority to make the contribution, it should be made to a special pay 457(b) plan that is funded solely with leave contributions. Also note that the city's 457(b) plan must authorize these types of contributions (e.g., the plan must define compensation for purposes of deferrals to include accrued leave).

The minimum balance requirement will be determined as of the first payroll in December and the employee's election must be received by December 31st. Payment will be based on the employee's regular hourly rate on December 1.



Note: This assumes there is no annual cash out payments of accrued leave in December. An election to contribute cashed out leave to a 457(b) plan must be made in the calendar month preceding the month in which the cash payment is made.

Conversion to deferred compensation will occur in the second payroll of the following year with specific dates to be determined by accounting each year. Accounting will notify all employees in November of each year as to the dates and conversion options. Regular hourly rate for the purpose of this policy is the employee's straight time rate not including overtime, pay differentials, out-of-class adjustments or any other additions to regular pay.

Annual leave will be converted to a cash payment on an hour-for-hour basis annually in accordance with the following conditions. Up to 40% of the annual leave balance, not to exceed eighty (80) hours, will be converted to cash each year provided the employee has used at least 30% of his/her annual accrual during the current calendar year and has a balance of at least 176 hours.



Note: The amounts and percentages are illustrative. The employer selects the applicable amounts and percentages.

The minimum balance requirement will be determined as of the first payroll in December. Payment will be based on the employee's regular hourly rate on December 1.

The converted leave will be paid in the second payroll of the following year with specific dates to be determined by accounting each year. Regular hourly rate for the purpose of this policy is the employee's straight time rate not including overtime, pay differentials, out-of-class adjustments or any other additions to regular pay.

Annual leave will be eligible for conversion to cash on an hour-for-hour basis annually subject to the following conditions. The employee may elect to convert up to eighty hours to be earned in the following calendar year if the employee has a balance of at least 176 hours as of the first payroll in December.

The conversion election must be made prior to December 31st of the calendar year preceding the year in which the leave will be earned and paid in cash. Elections to convert leave are irrevocable.



Note: The amounts and percentages are illustrative. The employer selects the applicable amounts and percentages.

The converted leave will be paid [insert payment schedule]. Payment will be based on the employee's regular hourly rate at the time the leave is earned. Regular hourly rate for the purpose of this policy is the employee's straight time rate not including overtime, pay differentials, out-of-class adjustments or any other additions to regular pay.

The employee may elect to defer the payment of the converted leave to the city's 457 deferred compensation plan in accordance with the terms of that plan.

Section 12.03 Funeral Leave

Employees will be permitted to use up to three (3) consecutive working days, with pay, as funeral leave upon the death of an immediate family member. This paid leave will not be deducted from the employee's vacation or sick leave 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.).

Section 12.04 Military Leave

State and federal laws provide protection 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 workdays in any calendar year. City compensation is in addition to the military pay for these 15 days, as per MN Attorney General's Opinion.

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-day paid leave of absence. Employees on extended unpaid military leave will receive fifteen 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 working days in advance of the requested leave. A training notice, signed orders, or battle assembly schedule are examples of typical written notification to share with the city.

If an employee has not yet used his/her fifteen 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 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 days will follow the same procedures as for any employee on an unpaid leave of absence.



For reference see [Minn. Stat. 192.261](#); AG Opinion 310h-1(a)

Section 12.05 Military Leave for Family Members

The city will not discharge from employment or take adverse employment action against an employee because an immediate family member is in the military forces of the United States or Minnesota.

Nor will the city discharge from employment or take adverse employment action against an employee because they attend departure or homecoming ceremonies for deploying or returning personnel, family training or readiness events or events held as part of official military reintegration programs. Employees may substitute paid leave if they choose to do so.

Unless the leave would unduly disrupt the operations of the city, employees whose immediate family member, as a member of the United States armed forces has been ordered into active service in support of a war or other national emergency, will be granted an unpaid leave of absence, not to exceed one day's duration in any calendar year, to attend a send-off or homecoming ceremony for the mobilized service member.



For reference, see [Minn. Stat. § 181.948](#).

Section 12.06 Military Leave for Family Member Injured or Killed in Active Service

Employees will be granted up to ten working days of unpaid leave whose immediate family member (defined as a person's parent, child, grandparents, siblings or spouse) is a member of the United States armed forces who has been injured or killed while engaged in active service. The 10 days may be reduced if an employee elects to use appropriate accrued paid leave.



For reference, see [Minn. Stat. § 181.947](#) & [Minn. Stat. § 181.948](#)

Section 12.07 Civil Air Patrol

The city will grant employees an unpaid leave of absence for time spent serving as a member of the Civil Air Patrol upon request and authority of the State or any of its political subdivisions, unless the absence would unduly disrupt the operations of the city. Employees may choose to use vacation or PTO leave while on Civil Air Patrol Leave but are not required to do so.



Note: [Minn. Stat. § 181.946](#) is a requirement for cities with more than 20 employees.

Section 12.08 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, they will receive compensation for the jury duty time.



For reference, see [Minn. Stat. § 593.50](#).

Section 12.09 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.

Section 12.10 Victim or Witness 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 to attend criminal proceedings related to the victim's case. Additionally, a victim of a violent crime, as well as the victim's spouse or immediate family member (immediate family member includes parent, spouse, child or sibling of the employee) may have reasonable time off from work to attend criminal proceedings related to the victim's case. An employee must give 48 hours advance notice to the city of their need to be absent unless it is impracticable, or an emergency prevents them from doing so. The city may request verification that supports the employee's reason for being absent from the workplace. [See also: Safety Leave under the Sick Leave Policy for additional information on leave benefits available to employees and certain family members].



For reference, see Minn. Stat. § 611A.036.

Section 12.11 Job Related Injury or Illness

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 their supervisor of the action taken. In the case of a serious emergency, 911 should 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.

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

Section 12.12 Pregnancy and Parenting Leave



For reference, see [Minn. Stat. § 181.940](#) & [Minn. Stat. § 181.941](#).



Note: Effective July 1, 2023 state law requirement for cities with one or more employees.

All employees 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 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 should provide reasonable notice, which is at least XX [30] days. If the leave must be taken in less than three days, the employee should give as much notice as practicable.

Employees are required to use accrued leave (i.e., sick leave, vacation leave, etc.) 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.

Effective July 1, 2023, the city will inform employees of their parental leave rights at the time of hire and when an employee makes an inquiry about or requests parental leave.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting parental leave rights or remedies.

Section 12.13 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.

Section 12.14 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.



Note: Effective July 1, 2023, state law requirement for cities with one or more employees.

Section 12.15 School Conference Leave

Effective July 1, 2023, any employee may take unpaid leave for up to a total of sixteen 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 disrupt unduly the operations of the city. Employees may choose to use vacation leave hours for this absence but are not required to do so.



Note: Effective July 1, 2023, [Minnesota Stat. § 181.940](#) & [Minn. Stat. § 181.9412](#) requirements for cities with more one or more employees.

Section 12.16 Bone Marrow/Organ Donation Leave

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, unless agreed to by the city, to undergo medical procedures to donate bone marrow or an organ. The 40 hours is over and above the amount of accrued time the employee has earned.

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

Effective July 1, 2023, an employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting bone marrow or organ donation leave rights or remedies.



Note: [Minnesota Stat. §181.945](#) & [Minn. Stat. § 181.9456](#) requirement for cities with more than 20 employees.

Section 12.17 Elections / Voting

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off with pay for purposes of serving as an election judge, provided the employee gives the city at least twenty days written notice, including 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 reduce the wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment.

Thus, employees will be paid the difference between their pay as an election judge and their regular rate of pay for their normal workday.

The city reserves the right to restrict the number of employees 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. Effective July 1, 2023, employees may be absent from work for the time necessary to vote to include voting during the period allowed for voting in person before election day.



For reference, see [Minnesota Stat. § 204C.04 & Minn. Stat. § 204B.195](#)

For reference, see [Office of Minnesota Secretary of State re: Time off for Employees to Serve as Election Judges.](#)

Section 12.18 Delegates to Party Conventions

An employee may be absent from work to attend any meeting of the state central committee or executive committee of a major political party if the employee is a member of the committee. The employee may attend any convention of a major political party delegate, including meetings of official convention committees if the employee is a delegate or an alternate delegate to that convention.

Per the statutory requirement, the employee must give at least ten days written notice of their planned absence to attend committee meetings or conventions. Time away from work for this purpose will be considered unpaid unless the employee chooses to use vacation/ PTO leave during their absence.



For reference, see [Minn. Stat. § 202A.135.](#)

Section 12.19 Regular Leave without Pay

The city administrator may authorize leave without pay for up to thirty days. Leave without pay for greater periods may be granted by the City Council.

Typically, employee benefits will not be earned by an employee while on leave without pay. However, the city's contribution toward health, dental and life insurance may be continued, if approved by the City Council, for leaves of up to ninety days when the leave is for medical reasons and FMLA has been exhausted.

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, sick leave, or vacation leave (annual leave). 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 (annual leave) based on actual hours worked.

Leave without pay hours will not count toward seniority and all accrued vacation leave and compensatory time 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 sick leave 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.

Employees receiving leave without pay in excess of thirty 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.



Note: The Family and Medical Leave Act ([29 CFR Part 825](#)) provides certain employees with up to 12 workweeks of unpaid, job-protected leave a year, and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave.

The FMLA applies to all public agencies, including state, local and federal employers, and local education agencies (schools). To be eligible for FMLA leave, an employee must work for a covered employer and:

- have worked for that employer for at least 12 months; and
- have worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave; and
- work at a location where at least 50 employees are employed at the location or within 75 miles of the location.



Note: “volunteer” firefighter may count as employees if paid at or near minimum wage. Given the employee eligibility requirements, even though all cities are covered by the FMLA, only employees in cities with more than 50 employees have the potential to qualify for FMLA protected leave. Thus, only cities with 50 or more employees generally include an FMLA policy in their personnel policies.

Section 12.20 Family and Medical Leave

Refer to the League’s model [FMLA policy](#) for language.

Section 12.21 Reasonable Work Time for Nursing Mothers



[MN law change regarding paid break times effective July 1, 2023]

Nursing mothers and lactating employees will be provided reasonable paid break times (which may run concurrently with already provided break times) to express milk.

The city will provide a clean, private and secure 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.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting nursing rights or remedies.



Note: Applies to cities with one or more employees.



The State of Minnesota offers a sample Nursing Mothers policy with additional language considerations covering areas such as milk storage, maintenance of milk expression areas, and communication with supervisors found here:

<https://www.health.state.mn.us/people/breastfeeding/workplaces.html>

Section 12.22 Light Duty/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. Light duty is evaluated by the city administrator on a case-by-case basis. This policy does not guarantee assignment to light duty.

Such assignments are for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the city administrator. The city administrator reserves the right to determine when and if light duty work will be assigned.

When an employee is unable to perform the essential requirements of their job due to a temporary disability, they will notify the supervisor in writing as to the nature and extent of the disability and the reason why they are 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 light duty. Upon receipt of the written request, the supervisor is to forward a copy of the report to the city administrator. 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 administrator whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis.

If the city offers a light duty 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 city will not, however, require an employee who is otherwise qualified for protection under the Family and Medical Leave Act to accept a light duty assignment.

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

Section 12.23 Reasonable Accommodations to an Employee 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 without advice of a licensed health care provider or certified doula:

- More frequent or longer restroom, food, and water breaks.
- Seating; and/or
- Limits on lifting over 20 pounds.

Additionally, an employer must provide reasonable accommodations, including, but not limited to, temporary leaves of absence, modification in work schedule or job assignments, seating, more frequent or longer break periods and limits to heavy lifting to an employee for health conditions related to pregnancy or childbirth upon request, with the advice of a licensed health care provider or certified doula, unless the employer demonstrates the accommodation would impose an undue hardship on the operation of the employer's business. In accordance with state law, no employee is required to take a leave of absence for a pregnancy nor accept a pregnancy accommodation.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting reasonable accommodations pregnancy rights or remedies.



Note [Minn. Stat. § 181.939](#), pregnancy accommodation changes effective January 1, 2022 applies to cities with 15 or more employees, and [Minn. Stat. § 181.9414](#). Effective July 2023, this definition is amended to apply to cities with one or more employees.

Section 12.24 Athletic Leave of Absence

An employee who qualifies as a member of the United State team for athletic competition on the world championship, Pan American, or Olympic team in a sport sanctioned by the International Olympic Committee, shall be granted a leave of absence without loss of pay or other benefits for the purpose of preparing for and engaging in the competition. In no event shall the paid leave exceed the period of official training camp and competition combined, or 90 calendar days a year, whichever is less. The employee shall provide documentation establishing their participation on said team and in said event.



Refer to [Minn. Stat. § 15.62](#).

Article XIII. DIVERSITY, EQUITY AND INCLUSION

Section 13.01 General

The city of _____ is committed to fostering, cultivating, and preserving a culture of diversity, equity and inclusion. Our policy is to be welcoming, safe, and equitable to all employees and members of the community. By embracing the diversity of our workforce and community, the city seeks to not only meet, but also exceed, our obligations under federal and state law. The goal of our policy is for the work environment to be free of harassment, discrimination, and retaliation.

Furthermore, it is our belief that:

- We are more efficient when all are valued and included.
- We are more effective when we leverage our different ideas, backgrounds and identities.
- We are more responsive when we acknowledge and reflect the identity and experience of our residents and colleagues.

Section 13.02 Definitions within this section

Cultural Competence: the ability to interact effectively across difference. We acknowledge that a ‘one size fits all’ approach is not effective and actively seek ways to make our services accessible and culturally relevant.

Discrimination: unfair treatment because of a protected class status.

Diversity: Recognizes the unique differences of all individuals. This includes the many apparent and non-apparent ways which people differ in their identity such as: age, gender and gender identity, race, ethnicity, national origin, language, religious beliefs, sexual orientation, veteran status, gender identity, mental or physical ability, marital status, family status, or educational background.

Equity: the principle of fairness by seeking to remove barriers and increase access to services. This includes understanding and acknowledging historical and ongoing inequities between groups of people and a commitment to actions that challenge those inequities.

Harassment: unwelcome conduct that is based on a protected class status that is intimidating, hostile or abusive. This includes sexual harassment.

Inclusion: an environment that is built on respect and which creates a sense of belonging for all who live and work here. By being inclusive we acknowledge and value individual contribution as well as the background and identity of those with whom we work, partner, or serve.

Section 13.03 Policy Statement

It is the city’s policy to respect culture and reduce bias in our workplace and service delivery.


The commitment to inclusion, diversity, and equity influences the work that is performed by the city, the workplace environment, relationships between employees, and relationships between the city and community.

While individual employees have their own beliefs and values, performing work on behalf of the city requires upholding cultural competence and respect to ensure work occurs that not only meets, but also exceeds, our obligations under federal and state law.


The city of _____ values all diversity and recognizes individual protected-class status as defined under state and federal law and seeks to ensure equal opportunities in all phases of employment. The city expects each employee to cooperate to achieve this goal and personally stand behind the principles as defined within this policy.

All employees of the city are expected to act and perform their work professionally, including respecting cultural differences.


Pursuant to the city's [Name of policy], discrimination, including harassment, will not be tolerated. Any employee found to have exhibited any inappropriate conduct or behavior may be subject to disciplinary action.

 City will want to insert name of policy in bracket above— either Sexual Harassment/Respectful Workplace Policy

Employees who believe they have been subjected to any kind of discrimination that conflicts with this policy should follow the reporting procedures within the city's [name of policy].

 City will want to insert name of policy in bracket above— either Sexual Harassment/Respectful Workplace Policy

Article XIV. SEXUAL HARASSMENT PREVENTION

 Note: The EEOC recommends providing the policy to employees upon hire and during harassment prevention trainings, as well as posting centrally, such as on the organization's internal website, in the employee handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations.

Section 14.01 General

The city of _____ is committed to creating and maintaining a public service workplace free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment. Discriminatory behavior includes inappropriate remarks about, or conduct related to a person's legally protected characteristic such as race, (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists), color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

This policy statement is intended to make all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, and elected officials and members of the public aware of the matter of harassment, but specifically sexual harassment, to express the city's strong disapproval of harassment, to advise employees against this behavior and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

Section 14.02 Applicability

Maintaining a work environment free from harassment is a shared responsibility.

This policy is applicable to all city employees, volunteers, applicants, contractors/vendors, members of boards and commissions, City Council members, and members of the public both in the workplace and other city-sponsored social events.

Section 14.03 Definitions

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication 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, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about 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. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
- 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.

Section 14.04 Expectations

The city of _____ recognizes the need to educate its employees, volunteers, members of boards and commissions, contractors/ vendors, applicants, elected officials and members of the public on the subject of sexual harassment and stands committed to providing information and training. All employees are expected to treat each other and the general public with respect and assist in fostering an environment free from offensive behavior or harassment.

Violations of this policy may result in discipline, including possible termination. Each situation will be evaluated on a case-by-case basis.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

1. A supervisor
2. Your supervisor's supervisor

3. Human Resources
4. City administrator
5. Mayor or city councilmember
6. City Attorney

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and/or take other reasonable action, and as soon as feasible, a supervisor.

1. Communicate to the harasser the conduct is unwelcome. Professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions, and request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.
2. In some situations, such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with an offender.
3. To reiterate, it's important you notify a supervisor, the city administrator, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the city administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. 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, the mayor or the city attorney.

The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. Management takes these complaints seriously and has the obligation to provide an environment free of sexual harassment. The city is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

In the case of a sexual harassment complaint, a supervisor must report the allegations promptly to the city administrator. If the city administrator is the subject of the complaint, then the supervisor is to report the complaint to the City Attorney. A supervisor must act upon such a report even if requested otherwise by the victim. The city will take proportionate corrective action to correct any and all reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation.

As noted later in this policy, retaliation is strictly prohibited. All allegations will be investigated. Formal investigations will be prompt, impartial, and thorough. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved, to the extent possible.

Any investigation process will be handled as confidentially as practical and related information will only be shared on a need-to-know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

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.



Note: The disclaimer above is in reaction to [Peterson v. City of Minneapolis](#), 892 N.W.2d 824 (Minn. 2017), in which the Minnesota Supreme Court held that the City's Respect in the Workplace Policy is a "dispute resolution process" under [Minn. Stat. § 363A.28, subd. 3\(b\)](#), and that the parties voluntary engagement in that process suspended the one-year statute of limitations period under the Minnesota Human Rights Act for the duration of the process. It is not clear whether a disclaimer will be legally valid. As a result, cities should conduct prompt investigations under this policy and notify complainants when an investigation is complete.

Section 14.05 Special Reporting Requirements

When the supervisor is the alleged harasser, a report will be made to the city administrator who will assume the responsibility for investigation and discipline. For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see below.

If the city administrator is the alleged harasser, a report will be made to the city attorney who will confer with the Mayor and City Council regarding appropriate investigation and action. If a councilmember is the alleged harasser, 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. The city will take reasonable and timely action, depending on the circumstances of the situation.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action. In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The city will take reasonable and timely action, depending on the circumstances of the situation.

Section 14.06 Retaliation

The city of _____ will not tolerate retaliation or intimidation directed towards anyone who reports employment discrimination, serves as a witness, participates in an investigation, and/or takes any other actions protected under federal or state discrimination laws, including when requesting religious or disability accommodation.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment.

While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor
2. Your supervisor's supervisor
3. City administrator
4. Mayor or City Councilmember
5. In the event an employee feels retaliation has occurred by the city administrator or the City Council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator to the city attorney, who will decide how to proceed in addressing the complaint.

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.

Article XV. RESPECTFUL WORKPLACE POLICY



(Includes sexual harassment prevention)



Note: The EEOC recommends providing the policy to employees upon hire and during harassment prevention trainings, as well as posting centrally, such as on the organization's internal website, in the employee handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations.

The intent of this policy is to provide general guidelines about conduct that is, and is not, appropriate in the workplace and other city-sponsored social events.

The city acknowledges this policy cannot possibly predict all situations that might arise, and also recognizes that some employees can be exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

Section 15.01 Applicability

Maintaining a respectful public service work environment is a shared responsibility. This policy is intended to express to all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, elected officials and members of the public the expectations by the city of _____ for respectful workplace conduct both in the workplace and other city-sponsored social events.

Section 15.02 Abusive Customer Behavior

While the city has a strong commitment to customer service, the city does not expect employees to accept verbal and other abuse from any customer.

An employee may request that a supervisor intervene when a customer is abusive, or the employee may defuse the situation themselves, including professionally ending the contact.

If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. Employees should leave the area immediately when violence is imminent unless their duties require them to remain (such as police officers). Employees must notify their supervisor about the incident as soon as possible.

Section 15.03 Types of Disrespectful Behavior

The following behaviors are unacceptable and therefore prohibited, even if not unlawful in and of themselves:

(a) Violent behavior:

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

(b) Discriminatory behavior:

includes inappropriate remarks about or conduct related to a person's legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

(c) 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, considering 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 should request clarification from their supervisor or the city administrator.

(d) 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.

(e) 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, kidding, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about 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. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
- 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.

Names and Pronouns: Every employee will be addressed by a name and by pronouns that correspond to the employee's gender identity. A court-ordered name or gender change is not required.

Section 15.04 Employee Response to Disrespectful Workplace Behavior

All employees should feel comfortable calling their supervisor or another manager to request assistance should they not feel comfortable with a situation. If situations involve violent behavior call the police, ask the individual to leave the area, and/or take other reasonable action.

If employees see or overhear what they believe is a violation of this policy, employees should advise a supervisor, the city administrator, or city attorney promptly.

Employees who believe disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. In the event the disrespectful behavior occurring involves the employee's supervisor, the employee should contact human resources, the supervisor's manager or the city administrator.

Step 1(a). If you feel comfortable doing so, professionally, 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, human resources, your supervisor's supervisor, or the city administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. In some situations, such as with an offender from the public it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

Step 1(c). The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. It is vitally important you notify a supervisor, the city administrator, the mayor or councilmember of promptly of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly 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, the mayor or the city attorney.

Section 15.05 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 promptly 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 the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

Step 1(a). 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 the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b). Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly. However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

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. Formal investigations will be prompt, impartial, and thorough.

The person being interviewed may have someone of his/her own choosing present during the interview. Typically, 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.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

Step 3. The supervisor must notify the city administrator about the allegations (assuming the allegations do not involve the city administrator). For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see “Special Reporting Requirements” below.


Step 4. In most cases, as soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations, and the alleged violator will have the opportunity to answer questions and respond to the allegations. The city will follow any other applicable policies or laws in the investigatory process.

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 and to the extent permitted by the Minnesota Government Data Practices Act.

Step 7. The city will take reasonable and timely action, depending on the circumstances of the situation.

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.

 The disclaimer above is in reaction to *Peterson v. City of Minneapolis* 892 N.W. 2d 824 (Minn. 2017), in which the Minnesota Supreme Court held that the City’s Respect in the Workplace Policy is a “dispute resolution process” under Minn. Stat. § 363A.28, subd. 3(b), and that the parties voluntary engagement in that process suspended the one-year statute of limitations period under the Minnesota Human Rights Act for the duration of the process.

It is not clear whether a disclaimer will be legally valid.
As a result, cities should conduct prompt investigations under this policy and notify complainants when an investigation is complete.

Section 15.06 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 determine how to proceed in addressing the complaint as well as appropriate 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.

If a councilmember 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.

In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The independent investigator will report his/her findings to the City Council. The city will take reasonable and timely action, depending on the circumstances of the situation.

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.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

Section 15.07 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).

Section 15.08 Retaliation

Retaliation is strictly prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal or state employment discrimination laws will not be subject to retaliation.

Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities.

Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor
2. Your supervisor's manager
3. City administrator
4. Mayor or city councilmember
5. In the event an employee feels retaliation has occurred by the city administrator or the city council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator to the city attorney, who will decide how to proceed in addressing the complaint.

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.

Article XVI. POSSESSION AND USE OF DANGEROUS WEAPONS

Possession or use of a dangerous weapon (see Article III for definitions) 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.

Article XVII. SEPARATION FROM SERVICE

Section 17.01 Resignations

Employees wishing to leave the city service in good standing must provide a written resignation notice to their supervisor, at least ten working days before leaving.

Exempt employees must give thirty 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 workdays may be considered as resignation without proper notice. Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the city.



In light of the 2021 Hall v. City of Plainview Case, a city will want to review their separation payment language with their legal counsel prior to adoption to ensure the language is specific and clear regarding when payouts will or will not occur for separating employees. A general disclaimer is insufficient.

Section 17.02 Severance Pay

Employees who leave the employ of the city in good standing by retirement or resignation will receive pay for 100 percent of unused accrued vacation (annual leave).

Article XVIII. DISCIPLINE

Section 18.01 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 _____. 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 the 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.

Section 18.02 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.

Section 18.03 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 they perform.

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:

(a) Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. All supervisors have the ability to issue oral reprimands without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice the performance or behavior needs to change, and what the change must be. The supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

(b) Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected, or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the supervisor with prior approval from the city administrator.

A written reprimand will: (1) state happened; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. An employees' signature does not mean the employee agrees with the reprimand. Written reprimands will be placed in the employee's personnel file.

(c) Suspension With or Without Pay

The city administrator may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans, who have completed their initial probationary period, will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

(d) Demotion and/or Transfer

An employee may be demoted or transferred if attempts at resolving an issue have failed and the city administrator determines a demotion or transfer to be the best solution to the problem.

The employee must be qualified for the position to which they are being demoted or transferred. The City Council must approve this action.

(e) Salary

An employee's salary increase may be withheld, or the salary may be decreased due to performance deficiencies.

(f) Dismissal

The city administrator, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with city standards.

If the disciplinary action involves the removal of a qualified veteran, who has completed their initial probationary period, the appropriate hearing notice will be provided, and all rights will be afforded the veteran in accordance with Minnesota law.

Article XIX. GRIEVANCE PROCEDURE

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 date at which the incident allegedly occurred, 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 twenty-one days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within seven calendar 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 date at which the incident allegedly occurred, 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 seven days after the supervisor's response is due. The city administrator or their designee will respond to the employee in writing within seven calendar 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.

Section 19.01 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.

Article XX. EMPLOYEE EDUCATION & 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 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.

Section 20.01 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:

Section 20.02 Job-Related Training & 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 developed for the employee will be considered in determining if the request is job-related.

CLE 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 unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

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

Section 20.03 Job-Related Meetings

Attendance at professional meetings costing \$ _____ or less and directly related to the performance of the employee's work responsibilities do not require the approval of the city administrator. Advance supervisor approval is required to ensure adequate department coverage.

Section 20.04 Request for Participation in Training & 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 totaling more than \$ _____ must be approved by the employee's supervisor and the city administrator. 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 should be forwarded to accounting for prompt payment.

Section 20.05 Out of State Travel



Cities will want to also refer to the Minnesota Office of the State Auditor Statement of Position: https://www.osa.state.mn.us/media/z40h41xb/travel_0705_statement.pdf

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 administrator.

Section 20.06 Not to Exceed Figure

Payment of training and/or conference expenses must not exceed \$ _____ per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive approval by the City Council.

Section 20.07 Compensation for Travel & 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.

Section 20.08 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.

Section 20.09 Travel & 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. In no case will city funds be used to pay for, or reimburse, for events sponsored by or affiliated with political parties.

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. The city will also not reimburse employees for the costs for travel of family members.

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 City Council, not to exceed the allowable IRS rate.

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 of \$ _____ per day will be allowed.

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.

Article XXI. OUTSIDE EMPLOYMENT

The potential for conflicts of interest is lessened when individuals employed by the city of _____ 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 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 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.
- No employee will work for another employer, or for his/her own business, while using paid sick leave from the city for those same hours.
- 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.

Article XXII. DRUG FREE WORKPLACE

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

- A. 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.
- B. The unlawful manufacture, distribution, possession, or use of drugs 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.
- C. 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.
- D. 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 days after the conviction as required by the Drug-Free Workplace Act of 1988.



Note: If the city employs commercial motor vehicle drivers subject to DOT drug and alcohol testing rules and/or if it is interested in conducting Non-DOT testing, which is subject to special rules and restrictions under Minnesota law, please refer to LMC information memo "[Drug and Alcohol Testing Toolkit for the City Workplace](#)" and its Model Policies on "[DOT Drug and Alcohol Testing for Commercial Drivers](#)" and "[Non-DOT Drug and Alcohol Testing and the Drug-Free Workplace Act](#)."

Article XXIII. 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 workday 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.

Article XXIV. CELLULAR PHONE USE

This policy is intended to define acceptable and unacceptable uses of city issued cellular telephones. Its application is to ensure cellular phone usage is consistent with the best interests 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 city employees exercise the highest standards of propriety in their use.

Section 24.01 General Policy

Cellular telephones are 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. Nothing in this policy will limit supervisor discretion to allow reasonable and prudent personal use of such telephones or equipment provided:

- Its use in no way limits the conduct of work of the employee or other employees.
- No personal profit is gained, or outside employment is served.
- All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving and who are issued a cellphone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times.

Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area. Hands-free equipment will be provided with city-issued phones to facilitate the provisions of this policy.

- Reading/sending text messages, making or receiving phone calls, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
 - In accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions. See above “City Driving Policy” for more information on reporting driver’s license restrictions”.



Cities will also want to be mindful of an existing 2012 Federal Motor Carrier Hands Free law restricting the use of all hand-held mobile devices for drivers of commercial motor vehicles: <https://www.fmcsa.dot.gov/driver-safety/distracted-driving/mobile-phone-restrictions-fact-sheet>



Alternatively, a supervisor may authorize an employee to use his/her own personal phone for city business and be reimbursed by the city for those calls.



Regardless of who pays the bill, cell phone records about city business are subject to the Minnesota Government Data Practices Act.

What this means is that if a request were received, the city would be under the obligation to determine what information is public data and what information is private data and would need access to the employee's phone records and possibly the phone itself in order to provide the data being requested.

Therefore, the best practice is to limit usage of personal cell phones for city business to that which is truly necessary or be prepared to produce your cell phone and the associated records if needed.

An employee will not be reimbursed for business-related calls without prior authorization from his/her supervisor. Supervisors may also prohibit employees from carrying their own personal cell phones during working hours if it interferes with the performance of their job duties.

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 consent of the supervisor.

Personal calls will be made or received only when absolutely necessary. Such calls must not interfere with working operations and are to be completed as quickly as possible.

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.

Section 24.02 Procedures

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

Section 24.03 Responsibility

The city administrator, or designee, will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement within their departments.

Article XXV. SAFETY

The health and safety of each employee of the city and the prevention of occupational injuries and illnesses are of primary importance to the city.

To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor.

Section 25.01 Reporting Accidents and Illnesses

Both Minnesota workers' compensation laws and the state and federal Occupational Safety and Health Acts require 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 their supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms necessary related to an injury or illness on the job.

Section 25.02 Safety Equipment/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.

Section 25.03 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.

Section 25.04 Access to Gender-Segregated Activities and Areas

With respect to all restrooms, locker rooms or changing facilities, employees will have access to facilities corresponding to their affirmed gender identity, regardless of their sex at birth. The city maintains separate restroom and/or changing facilities for male and female employees and allows employees to access them based on their gender identity.

In any gender-segregated facility, any employee who is uncomfortable using a shared facility, regardless of the reason, will, upon the employee's request, be provided with an appropriate alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, the city will not require a transgender or gender diverse employee to use a separate, nonintegrated space, unless requested by the transgender or gender diverse employee, because it may publicly identify or marginalize the employee as transgender.

Under no circumstances may employees be required to use sex-segregated facilities inconsistent with their gender identity.



Note: This model language is based on the EEOC's Fact Sheet on Bathroom Access Rights for Transgender Employees Under Title VII of the Civil Rights Act of 1964, which reflects the EEOC's regulatory enforcement actions as well as a 4th Circuit Court of Appeals case where the court afforded deference to the agency's interpretation. Because this in an evolving area of law, in drafting language like this, it is important to consult with your city attorney.

Earned sick and safe time as of Jan. 1, 2024

WHAT IS SICK AND SAFE TIME?

Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse.

WHO IS ELIGIBLE?

An employee is eligible for sick and safe time if they:

- work at least 80 hours in a year for an employer in Minnesota; and
- are not an independent contractor.

Temporary and part-time employees are eligible for sick and safe time. Sick and safe time requirements will not apply to building and construction industry employees who are represented by a building and construction trades labor organization if a valid waiver of these requirements is provided in a collective bargaining agreement.

HOW MUCH LEAVE CAN EMPLOYEES EARN?

An employee earns one hour of sick and safe time for every 30 hours worked and can earn a maximum of 48 hours each year unless the employer agrees to a higher amount.

AT WHAT RATE MUST THE LEAVE BE PAID?

Sick and safe time must be paid at the same hourly rate an employee earns when they are working.

WHAT CAN THE LEAVE BE USED FOR?

Employees can use their earned sick and safe time for reasons such as:

- the employee's mental or physical illness, treatment or preventive care;
- a family member's mental or physical illness, treatment or preventive care;
- absence due to domestic abuse, sexual assault or stalking of the employee or a family member;
- closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that the employee or family member is at risk of infecting others with a communicable disease.



WHICH FAMILY MEMBERS ARE INCLUDED?

Employees may use earned sick and safe time for their following family members:

1. their child, including foster child, adult child, legal ward, child for whom the employee is legal guardian or child to whom the employee stands or stood in loco parentis (in place of a parent);
2. their spouse or registered domestic partner;
3. their sibling, stepsibling or foster sibling;
4. their biological, adoptive or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child;
5. their grandchild, foster grandchild or step-grandchild;
6. their grandparent or step-grandparent;
7. a child of a sibling of the employee;
8. a sibling of the parents of the employee;
9. a child-in-law or sibling-in-law;
10. any of the family members listed in 1 through 9 above of an employee's spouse or registered domestic partner;
11. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
12. up to one individual annually designated by the employee.

Earned sick and safe time as of Jan. 1, 2024

WHAT ADDITIONAL SICK AND SAFE TIME RESPONSIBILITIES DO EMPLOYERS HAVE?

In addition to providing their employees with one hour of paid leave for every 30 hours worked, up to at least 48 hours each year, employers are required to:

- include the total number of earned sick and safe time hours accrued and available for use, as well as the total number of earned sick and safe time hours used, on earnings statements provided to employees at the end of each pay period;
- provide employees with a notice by Jan. 1, 2024 — or at the start of employment, whichever is later — in English and in an employee's primary language if that is not English, informing them about earned sick and safe time; and
- include a sick and safe time notice in the employee handbook, if the employer has an employee handbook.

The Minnesota Department of Labor and Industry will prepare a uniform employee notice that employers can use and will make it available in the five most common languages spoken in Minnesota.

CURRENT SICK AND SAFE TIME LOCAL ORDINANCES

Earned sick and safe time local ordinances already exist in the cities of Bloomington, Duluth, Minneapolis and St. Paul, Minnesota. When Minnesota's statewide earned sick and safe time law goes into effect Jan. 1, 2024, employers must follow the most protective law that applies to their employees.



Sick time

For physical or mental health conditions, illness or injury



Safe time

To address domestic abuse, sexual assault or stalking



Labor Standards • 443 Lafayette Road N. • St. Paul, MN 55155
651-284-5075 • 800-342-5354 • dli.mn.gov • dli.laborstandards@state.mn.us

Notice: This is a brief summary of Minnesota law. It is intended as a guide and is not to be considered a substitute for Minnesota Statutes regarding earned sick and safe leave.

FAQS: EARNED SICK AND SAFE TIME (ESST)

Contents

- Fast facts
- Basic information
- Coverage
- Earning hours: Accrual, carryover and front loading
- Payout or transfer of ESST hours
- Using ESST hours
- Rates of pay
- Recordkeeping and notice to employees
- Other employer obligations
- Complaints

Fast facts

- Minnesota's earned sick and safe time (ESST) law goes into effect on Jan. 1, 2024.
- Employers must provide each employee in Minnesota at least one hour of paid sick and safe time for every 30 hours worked, up to at least 48 hours of accrued ESST a year. An employee is anyone who works at least 80 hours in a year for an employer in Minnesota and is not an independent contractor.

- An employer's existing leave policy, such as paid time off (PTO), may already fully or partially meet Minnesota's earned sick and safe time requirements.
- ESST local ordinances are in effect in the cities of Bloomington, Duluth, Minneapolis and St. Paul and may differ from the state's ESST requirements. Employers are responsible for following the ESST requirements most favorable to their employees.
- The Minnesota Department of Labor and Industry is responsible for enforcing ESST requirements. In addition, affected employees may bring a civil lawsuit to address ESST violations.

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Basic information

What is Minnesota's earned sick and safe time law?

Effective Jan. 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. An employee is anyone who works at least 80 hours in a year for an employer in Minnesota but does not include independent contractors. Temporary and part-time employees are covered under the law.

Employers must provide each employee in Minnesota with one hour of ESST for every 30 hours worked, with the ability to accumulate at least 48 hours of ESST each year. An employer's existing leave policy, such as PTO, may already meet Minnesota's ESST requirements.

What can earned sick and safe time be used for?

Employees can use their earned sick and safe time for reasons such as:

1. the employee's mental or physical illness, treatment or preventive care;

2. a family member's mental or physical illness, treatment or preventive care;
3. absence due to domestic abuse, sexual assault or stalking of the employee or a family member;
4. closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency; and
5. when determined by a health authority or health care professional that the employee or a family member is at risk of infecting others with a communicable disease.

Which family members can an employee use ESST for?

Employees may use earned sick and safe time for the following family members:

1. their child, including foster child, adult child, legal ward, child for whom the employee is legal guardian or child to whom the employee stands or stood in loco parentis (in place of a parent);
2. their spouse or registered domestic partner;
3. their sibling, stepsibling or foster sibling;
4. their biological, adoptive or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child;
5. their grandchild, foster grandchild or step-grandchild;
6. their grandparent or step-grandparent;
7. a child of a sibling of the employee;
8. a sibling of the parents of the employee;
9. a child-in-law or sibling-in-law;

10. any of the family members (1 through 9 above) of an employee's spouse or registered domestic partner;
11. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
12. up to one individual annually designated by the employee.

What ESST responsibilities does an employer have if they already provide leave?

A paid time off (PTO) plan or other type of paid leave (including sick or vacation time) can satisfy the ESST law if the plan meets Minnesota's ESST requirements. Nothing prohibits an employer from providing more generous leave policies than the minimum required by the ESST law.

The name of the employer's paid time off or other paid leave policy does not matter. It does not have to be called "earned sick and safe time" to meet the requirements of the law.

Is the state ESST law the same as the sick time ordinances in several Minnesota cities?

ESST local ordinances are in effect in the cities of Bloomington, Duluth, Minneapolis and St. Paul and may vary from the requirements under state law. When Minnesota's statewide earned sick and safe time law goes into effect Jan. 1, 2024, employers are responsible for following the ESST requirements most favorable to their employees. In other words, employers must comply with the specific requirements of the state ESST law and the applicable local ESST ordinance that are most favorable to their employees. This may mean following some of the requirements of state ESST law and other requirements of the local ESST law.

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Coverage

Who is not covered by Minnesota's ESST law?

Federal employees and independent contractors are not covered under Minnesota's ESST law. Certain individuals employed by an air carrier as a flight deck or cabin crew member are also not covered. The ESST law does not apply to building and construction industry employees who are represented by a building and construction trades labor organization if a valid waiver of these requirements is provided in a collective bargaining agreement.

Does the employee have to live in Minnesota to be covered by ESST?

Employees do not have to live in Minnesota to be eligible for ESST accrual but must work at least 80 hours in Minnesota in a year to be eligible; time worked in Minnesota will apply to ESST accrual. If an employer is based in Minnesota but has employees who work in another state, those out-of-state employees are not covered by Minnesota's ESST law.

***Added Dec. 4, 2023:* Do local governments need to provide ESST to volunteer firefighters, government committee members and others who may receive some financial contribution but work infrequently?**

For the ESST law to apply, employers must meet the definition of "employer" and employees must meet the definition of "employee." Under the law, employers include all types of government, except for the federal government. As long as an employee works for their employer, including state or local government, for at least 80 hours in a year, the employee qualifies for ESST. Employers who are unsure if an individual is covered under the ESST law may want to seek the assistance of an employment law attorney to determine if an employment relationship exists.

Do governmental units need to provide ESST to elected officials?

Only "employees" as defined in the ESST law must be provided ESST; elected officials are not considered employees under the ESST law.

***Added Dec. 4, 2023:* Does ESST apply to building and construction industry employees?**

Yes, but the requirements for ESST can be waived through a collective bargaining agreement with a bona fide building and construction trades labor organization. The waiver needs to reference the ESST law specifically to be considered valid.

***Added Dec. 4, 2023:* If a building and construction trades labor organization represents employees of a non-building and construction trades employer (e.g., a manufacturer), can the parties negotiate an ESST waiver through collective bargaining?**

No, the ESST law allows for a waiver that applies to building and construction industry employees.

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Earning hours: Accrual, carryover and front loading

When do employees begin to accrue ESST?

Employees begin accruing ESST on their first day of employment.

***Added Dec. 4, 2023:* Do employees start accruing ESST before or after they have worked their first 80 hours for an employer?**

ESST accrual begins immediately when an employee starts working for an employer.

What is accrual of hours?

Accrual of hours is when each ESST hour is added to a saved total the employee may use. Employers must provide each employee in Minnesota with one hour of ESST for every 30 hours worked, up to at least 48 hours a year.

Sample scenarios

- Manuel works 30 hours a week at Classic Automotive and has worked there for seven months (28 weeks). Manuel has accrued 28 hours of ESST: $30 \text{ hours worked} \times 28 \text{ weeks} = 840 \text{ hours worked}$. $840 \text{ divided by } 30 = 28 \text{ hours of ESST}$.
- Sara works 40 hours a week at Mid-Minnesota Warehousing and has worked there for three weeks. Sara has accrued 4 hours of ESST: $40 \text{ hours worked} \times 3 \text{ weeks} = 120 \text{ hours worked}$. $120 \text{ divided by } 30 = 4 \text{ hours of ESST}$.

What is a "year" for purposes of the ESST law?

A "year" means any consecutive 12-month period of time as determined by an employer and clearly communicated to employees. Most employers will find it helpful to use one of the following: calendar year (Jan. 1 through Dec. 31); tax year; fiscal year; or year based on the employee's anniversary date of employment. While the employer may determine the accrual year, it is important to note that all employees must either 1) start accruing hours by Jan. 1, 2024, or 2) have at least 48 hours front loaded by Jan. 1, 2024.

Can an employer put a cap on how many ESST hours an employee can accrue?

Yes, employers may set a cap or limit on each employee's ESST accrual. Employers must allow each employee to accrue up to at least 48 hours a year, carried over from year to year, until an 80-hour maximum accrual is reached. These limits of 48 hours each year and a maximum accrual of 80 hours for each employee may be

higher if an employer agrees, but not lower. See options 2 and 3 under the question, "How does 'front loading' versus accrual of hours affect carryover into the next year under Minnesota's ESST law?" for front-loading options that do not involve required carryover.

Sample scenario

- Ali Consultants limits its employees' accrual of ESST hours to the minimum standard of 80 hours. Michelle accrued 30 ESST hours by the end of the first year of her employment. These 30 hours carried over into the second year, during which she accrued an additional 48 hours. She did not use any of these accrued hours. In the third year, Michelle accrues an additional two ESST hours before stopping at a limit of 80 hours (30 + 48 + 2). Because the employer capped the number of ESST hours at 80, she must use some accrued hours in her "bank" of 80 hours before accruing more ESST hours.

How does a salaried and exempt employee accrue sick and safe time hours?

Employees who are exempt from overtime because they are professional, administrative, or executive employees are presumed to work 40 hours a week for the purposes of ESST accrual. If there is clear evidence an exempt employee's regular work week is less than 40 hours, ESST may accrue based on that employee's actual regular work week.

Do ESST hours accrue on overtime hours worked?

Yes. ESST hours accrue on all hours worked, including overtime hours, unless the employee is exempt from earning overtime compensation under exemptions for professional, administrative and executive employees.

Do hours accrue when the employee is not working (on vacation or out sick)?

The law does not require ESST hours to accrue when an employee is not working.

How frequently are ESST hours calculated?

Employers may calculate and record earned sick and safe time hours at the same frequency as the employer's other typical payroll practices (i.e., by pay period, whether that's weekly, biweekly, monthly, or twice monthly). Amounts accrued and available for use in addition to amounts used each pay period must be listed on the employee's earnings statement (also known as a paystub).

***Added Dec. 4, 2023:* Are ESST hours accrued in hour blocks or are employers required to give employees partial ESST hours accrued if they work less than 30 hours in a pay period?**

The ESST law does not require employers to credit employees for partial hours of ESST, such as a half-hour after 15 hours worked. Employers may credit ESST in 30-hour blocks, resulting in one hour of ESST. Employers may also choose to credit employees in partial hours of ESST, as long as they are earning ESST hours at a rate of at least one hour of ESST for every 30 hours worked.

Sample scenarios

- Michael works one five-hour shift per week, resulting in 10 hours of pay on his biweekly paycheck. It will take Michael three paychecks to accrue one hour of ESST. Michael's employer can either wait three pay periods and then provide Michael with one hour of accrued ESST, or the employer can choose to provide Michael with .33 hours of ESST each pay period.
- Wanda works 7.5 hours per day, five days a week, resulting in 75 hours on her biweekly paycheck. Wanda's employer prefers crediting partial ESST

hours instead of waiting until full hours of ESST are earned. Wanda is credited with 2.5 hours of ESST on her biweekly paychecks.

***Added Dec. 4, 2023:* Can an employee accrue ESST hours with more than one employer at a time?**

Yes, ESST accrues at each employer for whom an employee works and accrual amounts are tied to each employer individually.

***Added Dec. 4, 2023:* Do ESST hours accrue for on-call time? What if the on-call time is paid by the employer?**

ESST hours must accrue for all hours worked. Whether on-call time is considered hours worked and therefore compensable time is very fact specific and generally depends on the degree of constraint on an employee's freedom during on-call time. Payment for on-call time does not, on its own, convert that time into hours worked. Employers who assign on-call shifts may want to seek the assistance of an employment law attorney to determine the applicability of ESST to those shifts.

***Added Dec. 4, 2023:* If an employee works mostly in another state, but works some hours in Minnesota, how does ESST accrue?**

ESST hours are required to accrue for any employee who works at least 80 hours in a year for an employer in Minnesota. If an employee works in another state, the employer is not required to provide ESST under Minnesota law for out-of-state hours worked. However, the employee must accrue ESST at a rate of at least one hour for every 30 hours worked in Minnesota.

Do unused ESST hours carry over from year to year?

Yes, employers must carry over each employee's accrued and unused ESST hours to the following year unless the employer chooses to front load ESST hours in accordance with the options provided in the ESST law listed below under the question "How does 'front loading' versus accrual of hours affect carryover into the next year under Minnesota's ESST law?" Total accruals including carryover amounts may be capped at 80 hours of ESST.

Sample scenario

- Lee accrued 30 ESST hours by the end of the first year of employment. However, Lee did not use any of these ESST hours. Lee's employer must carry over those 30 hours into the following year. Lee may then accrue additional hours up to at least 48 in the second year.

How does "front loading" versus accrual of hours affect carryover into the next year under Minnesota's ESST law?

"Front loading" of ESST hours is an alternative method for providing ESST to employees. This option allows employers to record accrual of ESST once a year and avoid carry over of hours from year to year. Some employers may want to use this method to reduce the calculations and recordkeeping required for accrual by pay period (weekly, biweekly, twice monthly or monthly).

Employers may choose whether hours will accrue each pay period or be "front loaded" at the start of each year. Option 1 allows for carryover, but employers can avoid carryover requirements by using either Option 2 or 3.

Option 1. Accrual and carryover:

- employees begin accruing ESST from their first day of employment;

- ESST accrues at a rate of at least one hour for every 30 hours worked;
- employees are permitted to accrue a minimum of up to 48 hours of ESST in a year (more if the employer agrees to a higher amount); and
- employees can carry over unused ESST into the next year. However, at no time can an employee's accrued ESST exceed 80 hours (unless the employer agrees to a higher amount).

Option 2. Front loading with pay out and no carryover:

- A minimum of 48 hours of ESST is provided to an employee and made available for immediate use at the start of each year; and
- unused ESST hours are paid out at the end of the accrual year at the employee's hourly rate.

Option 3. Front loading with no pay out and no carryover:

- A minimum of 80 hours of ESST is provided to an employee and made available for immediate use at the start of each year; and
- the ESST hours the employee did not use are not paid out at the end of the accrual year.

Sample scenario

- Ana is a business owner. She employs Omar and front loads Omar's sick and safe time hours once a year. At the beginning of Omar's first year of employment, Ana front loads 48 hours into Omar's bank. He has 8 hours of remaining sick and safe time at the end of the first year, which Ana pays out. At the beginning of Omar's second year and every year thereafter, Ana front loads 80 hours into Omar's bank; once using option 3 (see above), Ana is not required to pay out unused ESST hours at the end of the year.

May an employer front load yearly ESST hours for part-time employees?

Yes, an employer may front load yearly ESST hours for part-time or full-time employees, as long as it is for the total amount required under the front loading options – either 48 hours at the start of the year with payout of unused hours at the end of the year, or 80 hours at the start of the year with no pay out at the end of the year.

May an employer treat part-time and full-time employees differently? For example, can the employer front load ESST hours for some employees but not others?

Yes, an employer may treat part-time and full-time employees differently for purposes of ESST so long as the employer provides all employees at least what they are entitled to under Minnesota's ESST law and as long as the law is applied in a way that does not discriminate against an employee or group of employees based on a protected class, such as race, sex, or national origin.

What happens if an employer front loads paid time off before Jan. 1, 2024?

If an employer has a designated accrual year that started before Jan. 1, 2024, the employer can count leave time already provided and available for use as meeting the obligation under the front loading options. For example, if an employer's designated accrual year is Sept. 1 to Aug. 31, and the employer front loads 80 hours on Sept. 1, the employer has met its obligation on Jan. 1, 2024. To continue meeting its obligations under the front loading options, the employer must front load hours again on Sept. 1, 2024.

This answer does not contemplate the impact of provisions contained in a collective bargaining agreement.

Employers who take the above approach must also ensure that the applicable leave policy allows for all types of leave eligible under the ESST law (e.g., safe time) as of Jan. 1, 2024.

Sample scenario

- Bonnie works as a math teacher for a school district that front loads 80 hours of paid time at the start of the school year on Sept. 1, 2023. The district's designated accrual year runs from Sept. 1 until Aug. 31. The school district has met its obligations on Jan. 1, 2024, under the front loading options, but must front load hours again on Sept. 1, 2024.

For an employer whose accrual year starts prior to Jan. 1, 2024, can that employer count hours accrued prior to Jan. 1, 2024, towards the 48 hour annual maximum employee accrual (unless the employer agrees a higher maximum)?

Yes, if the accrual option is selected, the employee will continue to accrue ESST time after the Jan. 1, 2024, ESST law effective date. The employer can limit accrual to 48 hours per accrual year. Time accrued before Jan. 1, 2024, can count towards the 48 hours.

On the other hand, if the front loading option is selected, the employer must provide the employee 48 or 80 hours at the beginning of the designated accrual year. The designated accrual year does not need to begin on Jan. 1, 2024.

This answer does not contemplate the impact of provisions contained in a collective bargaining agreement.

Employers who take the above approach must also ensure that the applicable leave policy allows for all types of leave eligible under the ESST law (e.g., safe time) as of Jan. 1, 2024.

***Added Dec. 4, 2023:* May an employer prorate the front loading of ESST hours for partial-year employees or part-time employees?**

No, the ESST law does not authorize prorating front-loaded hours. An employer must provide at least one hour of ESST for every 30 hours worked, up to at least 48 ESST hours per year, or front load at least 48 hours. However, an employer could choose to place new employees on an accrual system when hired, and then switch them to a front-loaded system at the beginning of the next accrual year.

***Added Dec. 4, 2023:* If an employer front loads 48 hours of ESST on Jan. 1, 2024, can the employer decide to change to an accrual method in 2025?**

Yes, as long as employees are paid out their unused ESST hours at the end of 2024.

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Payout or transfer of ESST hours

Must unused ESST hours be paid out when an employee leaves their job?

Employers are not required to pay out any accrued and unused ESST if an employee leaves their job, either voluntarily or involuntarily. However, employers may choose to do so. An employee who transfers positions or work units within a single employer retains their accrued ESST.

Are ESST hours restored if an employee returns to work for a former employer?

An employee who returns to work for the same employer within 180 days of separation is entitled to the ESST hours accrued before leaving the employer.

If an employer pays out an employee's unused ESST hours when the employee leaves their job do they need to reinstate those same hours if they return to work for the same employer within 180 days?

No, an employer would not need to reinstate any hours that had been paid out when the employee previously left their job. However, if payout is not made at the time the employee leaves their job, then the employer must reinstate the unused ESST hours if the employee returns to work for the same employer within 180 days.

What happens to ESST hours if the workplace changes owners?

If a workplace changes ownership, retained employees keep their accrued and unused ESST. Employees who are terminated by the original owner as part of the change in ownership and are rehired by the new owner within 30 days of ownership change are also entitled to their accrued and unused ESST.

***Added Dec. 4, 2023:* If an employee changes divisions within the same employer, can the employer pay out the employee's unused ESST and require the employee to start accruing new ESST hours in the new division?**

No, an employee retains their ESST hours if they transfer to a separate division, entity or location within the same employer.

***Added Dec. 4, 2023:* Can employees transfer their ESST hours to coworkers under the ESST law?**

The ESST law does not prohibit an employer from establishing a policy allowing employees to donate ESST hours to another employee.

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Using ESST hours

When can employees start using accrued ESST hours?

Employees may use earned sick and safe time as it is accrued.

Can an employer require an employee to provide notice to use ESST leave?

An employer may require notice of up to seven days in advance when the need to use ESST is foreseeable. If the need is unforeseeable, an employer may require notice as soon as practicable. If an employer requires notice, it must have a written policy regarding notice procedures and must provide a written copy of the policy to employees; if the policy is not provided to employees, then an employer cannot deny use of ESST to an employee on the grounds that the employee did not follow the notice policy.

Sample scenarios

- Victor works for Crescent Laundry Inc., which typically requires its employees to provide at least 24 hours advance notice of any absence per written policy. Two hours before Victor's shift, his child develops stomach pains and Victor needs to take her to the doctor. Under these circumstances, Victor does not need to comply with Crescent Laundry's 24-hour advance notice policy; rather, he should provide Crescent Laundry with notice as soon as practicable of his ESST use.
- Peter owns O's Market and employs Abdi. O's Market has a written policy requiring seven days advance notice from its employees for sick and safe time use when the absence is foreseeable. Abdi schedules a preventative care check-up for his daughter several months in advance of the check-up but forgets to inform O's Market until two days before the appointment. Under these circumstances, the

employer may deny Abdi's use of ESST for the appointment as its written policy meets ESST requirements and the ESST use was foreseeable.

Added Dec. 4, 2023: If an employee is using ESST for a foreseeable reason such as a yearly check up, and does not notify their employer until the day before the appointment, can the employer deny the employee's use of ESST?

An employer can require notice of intent to use ESST up to seven days in advance when ESST is used for a foreseeable reason. If the employer has a written policy regarding the procedures to provide notice up to seven days in advance and the employer has provided a copy of this written policy to the employee, the employer can deny the employee's request to use ESST if the employee did not follow the notice requirements in the policy.

Can an employer require an employee to provide documentation to use ESST leave?

An employer may require an employee to provide reasonable documentation of ESST use only when more than three consecutive days of ESST are used. If the employee is unable to secure the requested documentation, in most cases the employee may supply the employer with a written statement indicating the employee is using or used ESST for a qualifying purpose. The written statement may be written in the employee's first language and does not need to be notarized or in any particular format.

Sample scenario

- Employee Kyle has used ESST for four consecutive days because of illness. As Kyle has used ESST for more than three consecutive days, Kyle's employer may condition approval of sick and safe time hours on requested documentation. However, if Kyle is unable to get documentation because he did not see a healthcare professional or he could not obtain the

documentation from a healthcare professional in a reasonable timeframe or without added expense, Kyle can instead provide a written statement that he used the ESST leave for a qualifying purpose.

***Added Dec. 4, 2023:* Can employers require documentation from employees after they use ESST for more than three consecutive calendar days or more than three consecutive work days?**

Employers may require documentation if an employee misses more than three consecutive days the employee is scheduled to work.

Must an employee specifically ask to use “sick and safe time” in order to use it?

No, the law does not require that an employee specifically ask to use “sick and safe time” in order to use it.

Can an employer require an employee to provide specific details about the reason for using sick and safe time?

No, the law does not require that an employee provide specific details about the reason for using sick and safe time, including details related to the employee’s or their family member’s medical condition.

Does an employee have to find someone to cover their shift to use ESST?

No, employers are prohibited from making employees find replacement workers as a condition of using ESST.

Does an employee have to use a certain amount of ESST for each absence?

Employees may use ESST in the smallest increment of time tracked by the employer’s payroll system or four hours, whichever is smaller.

Does an employer's PTO policy meet the requirements of the ESST law if their employees can choose whether to use PTO for vacation, sick and safe time, or both?

As long as the PTO policy is as generous as what is required under the ESST law, an employer's PTO policy meets ESST requirements even if an employee chooses to use some or all PTO for vacation leave instead of ESST leave.

May an employee use ESST at the same time as other protected leave under other state or federal laws?

Yes, as the ESST law does not limit or otherwise affect the applicability of other laws that extend other protections to employees.

***Added Dec. 4, 2023:* Can an employer require an employee to use ESST if they miss work for an ESST-eligible reason?**

The ESST law does not require an employee to use ESST, but an employee may choose to use ESST for eligible purposes.

***Added Dec. 4, 2023:* Can an employee's use of ESST be counted against them in relation to an employer's attendance policy or point system?**

Employers cannot have policies or practices that adversely impact employees specifically for using ESST. Employers who are unsure if their policies or practices violate the ESST law's retaliation prohibition may want to seek the assistance of an employment law attorney for further guidance.

***Added Dec. 4, 2023:* Can an employee use ESST during times the employer is in operation but the employee is not scheduled to work?**

ESST is paid leave from work. If an employee is not scheduled to work, the ESST law does not require an employer to allow employees to use ESST.

***Added Dec. 4, 2023:* One allowable use of ESST is when an employee's workplace is closed due to weather or public emergency. If an employer closes the place of business for reasons other than inclement weather or a public emergency, do they need to allow their employees to use ESST?**

No. While an employer's paid time off policy may allow an employee to receive pay for those types of closures, it would not be required under the ESST law. Use of ESST when an employer is closed can be limited to closures related to weather and declared public emergencies.

***Added Dec. 4, 2023:* What is considered a public emergency for purposes of ESST use?**

A public emergency includes a declared emergency as defined in Minnesota Statutes section 12.03 or a declared local emergency under Minnesota Statutes section 12.29.

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Rates of pay

At what rate must ESST be paid?

ESST must be paid at the same hourly rate as an employee earns from employment. Under no circumstances can the hourly rate be less than the applicable local or state minimum wage, whichever is higher.

Is ESST paid at the wage rate at the time of accrual or the wage rate at the time ESST is used?

ESST must be paid at the hourly rate of pay for the shift for which the leave is being used.

If an employee has two or more different rates of pay for the same employer, what should the rate of pay be for sick and safe time hours used?

The rate of pay for the employee's use of sick and safe time should be the rate of pay for the job or shift the employee was scheduled to work but for which ESST hours were used instead.

***Added Dec. 4, 2023:* How does an employer determine the hourly rate for an employee who is paid based on productivity, commission or a daily rate?**

Employers should ensure that employees receive ESST at a rate equivalent to the hourly rate they would earn from employment, and in no case can ESST be paid at a rate below the applicable minimum wage.

Some employers pay employees through piece rates, by the mile, a daily rate or another non-hourly rate. An employer who uses one of these types of pay systems could calculate an hourly rate for employees by, for example, using an employee's last several paychecks to divide their total gross earnings by their total hours worked to determine an hourly rate for ESST purposes.

Similarly, an employer could calculate the hourly rate of employees' provided daily pay by dividing their average number of hours worked per day by their daily pay rate.

As previously stated, the hourly rate arrived at must be at least the applicable minimum wage.

***Added Dec. 4, 2023:* If an employee receives tips as part of their work, is their employer responsible for paying the employee their missed gratuities while on ESST leave?**

The ESST law does not require employers to compensate employees for missed gratuities while on ESST leave.

***Added Dec. 4, 2023:* If the shift for which an employee takes ESST leave would have brought them into overtime pay had they worked, is the employer responsible for paying an overtime rate for the ESST hours used for that shift?**

The ESST law does not require employers to pay an overtime rate if the hours taken as ESST leave would have brought the employee into overtime pay had the employee worked.

***Added Dec. 4, 2023:* If an employee receives a fixed stipend or other form of payment that is not reduced if the employee misses work, does the employer also need to pay an hourly rate to the employee for missed work due to an ESST-covered reason?**

No, if an employee's compensation is not reduced for missing work, an employer would not need to pay an hourly rate for work missed for an ESST-covered reason.

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Recordkeeping and notice to employees

What ESST record keeping responsibilities do employers have?

Employers currently must provide earnings statements with certain required information to employees at the end of each pay period.

When the ESST law goes into effect, employers will be required to include the following additional information on earnings statements:

- the total number of sick and safe time hours accrued and available for use; and
- the total number of sick and safe time hours used in the pay period.

In addition, [employers are required to keep record of hours worked as well as other information](#) and must retain these records for three years.

Added Dec. 4, 2023: Instead of placing ESST hours on employees' earnings statements, can employers tell employees how to find information about their ESST hours in their timekeeping system?

No. Minnesota law requires employers to include information about ESST hours available for use and used in the pay period on earnings statements provided to employees. However, in addition to the earnings statement requirement, employers may choose to make this information available through their company portal, timekeeping software or other accessible systems as well.

Do employers need to provide employees with notice regarding their rights under the ESST law?

Yes, employers must provide notice to all employees that includes at least the following information:

- employees are entitled to ESST;
- the amount of ESST they will accrue;
- the accrual year for the employee (as set by the employer);
- the terms regarding when employees may use ESST;

- a copy of any existing written policy regarding employees providing notice to use ESST;
- an explanation that retaliation for requesting or using ESST is prohibited; and
- an explanation that employees have a right to file a complaint or to bring a civil action if ESST is denied or if employees are retaliated against for requesting or using ESST.

This notice needs to be provided to employees in English and the primary language of the employee. DLI has posted a sample notice for employer use; however, employers are not required to use the sample notice as long as their notice contains all of the required information above. The sample notice is available on the Workplace notices and posters webpage. It is in English and translated into 17 additional languages; employers can request additional languages.

In what manner must employers provide the ESST notice to employees?

Employers must provide the ESST notice in a manner that is at least as effective as one of these options:

- posting a copy of the notice at each location where employees perform work;
- providing a paper or electronic copy of the notice to all employees; or
- posting the notice on a web-based or app-based platform that employees use to perform work.

An employer that provides an employee handbook to its employees must also include in the handbook a copy of the required earned sick and safe time information.

When must an employer provide the ESST notice to employees?

Employers must provide the ESST notice to employees upon the start of their employment or by January 1, 2024, when the ESST law goes into effect, whichever date is later.

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Other employer obligations

If an employer contracts with a staffing agency for temporary employees, which entity is responsible under Minnesota's ESST law to meet the sick and safe time obligations for the temporary employees?

Under Minnesota's ESST law, unless there is a contract that states otherwise, the staffing agency is responsible for the ESST obligations.

Does an employer have to keep medical information about employees confidential?

Yes, an employer must keep health and safety information about an employee or an employee's family member obtained because of the ESST law confidential unless the employee permits disclosure or the disclosure is required by law. Related medical records and documents must be maintained as confidential medical files separate from employee personnel files.

***Added Dec. 4, 2023:* What insurance coverage responsibilities does an employer have while an employee uses ESST?**

During ESST use, the employer must maintain coverage under any group insurance policy, group subscriber contract or health care plan for the employee and any dependents, as if the employee was not using ESST. The employee must continue to pay their share of the cost of such benefits.

Complaints

What options does an employee have if their employer fails to provide ESST or retaliates against an employee for exercising their rights under the ESST law?

The employee can contact the Minnesota Department of Labor and Industry (DLI) to submit a complaint. In addition, employees may bring a civil lawsuit to remedy ESST violations.

How are complaints filed with DLI?

Complaints regarding violations of the earned sick and safe time requirements can be submitted to DLI's Labor Standards Division at 651-284-5075 or dli.laborstandards@state.mn.us.

Can complaints be filed anonymously?

Complaints can be filed anonymously but it may be helpful for DLI to have name and contact information for follow up.

ESST requirements are set by statute.

Answers to FAQs are informational only and only apply to Minnesota's ESST law. These answers are not a source of law or legal advice. To review Minnesota's ESST requirements, see Minnesota Statutes 181.032 and 181.9445-181.9448.

[BACK TO MAIN ESST PAGE ►](#)

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From: Joyce Hottinger via LMC - MemberLink <Mail@ConnectedCommunity.org>
ant: Wednesday, November 8, 2023 11:46 AM
To: clerk@emily.net
Subject: RE: City HR/Personnel Professionals : ESST and Firefighters



City HR-Personnel Professionals

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Re: ESST and Firefighters

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Nov 8, 2023 11:46 AM
[Joyce Hottinger](#)

Hello Everyone,

Perhaps this Memberlink post from Halloween will help clarify that Firefighters are indeed generally covered under ESST.



Oct 31, 2023 6:59 PM
[Joyce Hottinger](#)

Happy Halloween everyone,

No tricks for you, just some reference information regarding Earned Sick and Safe Time (ESST).

I wanted to share I spoke with David Skovholt at the Minnesota Department of Labor and Industry late today. David has been a key presenter on ESST within DOLI.

David stated that Minn. Stat. §177.23 referenced in an earlier MemberLink post is aligned with the Minnesota FLSA chapter of law and not ESST. **Thus, firefighters and police officers are indeed generally covered under ESST.**

Now for the treat...MN DOLI is currently exploring an option that would generally exclude elected officials from the ESST. The Department is researching the basis that generally, elected officials are

not employees and thus would not be eligible under ESST. This is currently under consideration and David will let us know when they have made their decision. Stay tuned as we will be sure to post any updates to our FAQs regarding this important information as soon as information is available.

Wishing you a night of fun and no frights!

Joyce Hottinger
Assistant HR Director
League of Minnesota Cities
Saint Paul MN
(651) 281-1216

Great news! Since that post we have been advised by the state that elected officials are not subject to ESST.

www.dli.mn.gov/business/employment-practices/...



Thanks and have a wonderful day.

Joyce Hottinger (she/her/hers) | Assistant HR Director

Phone: (651) 281-1216 | Mobile: (651) 470-0217 |

jhottinger@lmc.org |

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From: Joyce Hottinger via LMC - MemberLink <Mail@ConnectedCommunity.org>
Sent: Wednesday, November 1, 2023 11:09 AM
To: clerk@emily.net
Subject: RE: City Clerks/Administrators : ESST and Vol. Ambulance Members



City ClerksAdministrators

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Re: ESST and Vol. Ambulance Members

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Nov 1, 2023 11:09 AM

[Joyce Hottinger](#)

Good morning and happy first day of November!

Thank you for your question. The ESST definition of an employee is found under MN Stat. § 181.9445, Subd.5:

The new ESST law defines "Employee" as follows:

Means any person who is employed by an employer, including temporary and part-time employees, who performs work for at least 80 hours in a year for that employer in Minnesota. Employee does not include:

- (1) an independent contractor; or
- (2) an individual employed by an air carrier as a flight deck or cabin crew member who:
 - (i) is subject to United States Code, title 45, sections 181 to 188;
 - (ii) works less than a majority of their hours in Minnesota in a calendar year; and
 - (iii) is provided with paid leave equal to or exceeding the amounts in section

The ESST law excludes independent contractors and certain air carrier crew members which differs from the FLSA definition of an employee found in MN Stat 171.23.

So much like the earlier MemberLink questions surrounding paid on call firefighters, many city ambulance workers would likely fall under the above ESST definition. Thus, a city would want to track to see if the

workers meet the 80 hours in a year threshold for hours worked and trainings attended, and if they do, begin awarding 1 hour of ESST for every 30 hours worked.

In case this is helpful, here are some helpful links regarding the new law:

- www.revisor.mn.gov/laws/2023/0/53/...
- A link to the State's ESST webpage: www.dli.mn.gov/sick-leave
- A link to the League's ESST FAQs: www.lmc.org/resources/...

I hope this helps. Have a wonderful day!

Joyce Hottinger (she/her/hers) | Assistant HR Director

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SPHR, SHRM-CP

Please be advised that I am not an attorney and this does not constitute legal advice.

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From: CTAS <CTAS@osa.state.mn.us>
Sent: Wednesday, October 11, 2023 4:05 PM
To: Kathy Docter
Subject: CTAS and Earned Sick and Safe Time (ESST)

Flag Status: Flagged

Dear CTAS User,

Effective January 1, 2024, Minnesota has a new law requiring employers to provide paid Earned Sick and Safe Time (ESST) to employees. Considering the new law, the Office of the State Auditor (OSA) will be updating CTAS to track the time earned and used and to provide that information on the pay stub. The OSA is planning on releasing an update to CTAS that will have the required changes at the beginning of 2024. The CTAS update will only have the record-keeping requirements. For more specifics on the law and how to administer it, please go to the Department of Labor and Industry's website: <https://www.dli.mn.gov/sick-leave>.

Thank you.

Kathy Docter, CPA, CFE
Director, Government Information Division
Office of the State Auditor

Joyce Hottinger, LMC, 11-21-23:

Look at all hours worked for people who hold multiple positions. Have to look at total hours worked and divide by 30. Get to 48 hour cap faster. If a maintenance person is also a firefighter then all hours are added together when calculating accrual. Look at total hours worked. Do not separate positions when calculating ESST. All hours worked in all positions contributes to the accrual to the 48 hour cap.

Joyce, LMC, 11-28-23:

Question: My question is whether FMLA uses the same fte calculation (reference No Requirement for Health Insurance for City Employees 11.7.23) or if it counts each employee as 1. Reviewing CFR 825.105 it looks like each employee would be counted as 1.

I believe FMLA is not required before Jan. 1, 2026. Even if the City has 50 employees, can't we wait until 1-1-26 to include FMLA requirements in the City's Personnel Policy?

Paid mn fmla 1-1-26

Federal fmla unpaid – job and benefits protected

Accrued leave could be used to fill in.

If need federal fmla policy there is a model policy can use until 1-1-26.

Bodies are counted, not ftes

Jessica, Gallagher Benefits, 11.7.23:

My question: The LMC personnel policy template includes optional wording regarding federal health care reform laws and regulations requiring the City to offer health insurance benefits to employees that are expected to work 30 or more hours per week or 130 hours or more per month. What is the law that requires this? Is there a small city exemption?

Joyce Hottinger, LMC, referred me to Gallagher Benefits for a free consultation.

Jessica said the federal law is the affordable care act/healthcare reform/Obamacare. The law requires employers with over 50 full-time employees or 50 full-time equivalent (fte) employees to provide minimal essential healthcare coverage to employees expected to work 30 or more hours per week or 130 hours or more per month. In calculating ftes, elected officials, appointed board members, and appointed commission members must be counted. Volunteer fire and first responders must also be counted. The fte calculations for officials and volunteers are very low and the City would not currently hit the threshold for 50 ftes so is not required to provide health insurance benefits coverage. There is no state law requirement.

We are not required to provide health insurance benefits under federal law, but may want to in order to attract/retain employees.

Healthcare Reform and Other Provisions Unique to Small Employers

(updated 1/25/2021)

Nancy L. Farnam, J.D., Area Senior Vice President, Compliance Counsel

Kathi J. Wright, J.D., Area Vice President, Compliance Counsel

Gallagher Benefit Services, Inc.

While most healthcare reform provisions apply to employers uniformly, regardless of size, there are a few provisions that may benefit small employers. These include an exemption from the employer mandate penalty, the availability of coverage through state exchanges, health insurance tax credits, exemption from reporting health costs on W-2s, and the use of a SIMPLE Cafeteria Plan. These benefits are discussed below and outline the employer size requirements for each.

Are you exempt from the employer mandate penalty?

The employer mandate requires a “large employer” to offer health coverage to at least 95% of its full-time employees or pay a penalty. If you employed fewer than 50 full time and full-time equivalent employees during the prior calendar year, you are exempt from the employer mandate penalty. These rules are applied on a controlled group basis, meaning that all employees of all employers within the controlled group are taken into account. How do you determine if you have 50 or more? First, count the number of full-time employees (those working 30 or more hours per week) for each calendar month in the preceding year. Then count all of your part-time employee hours for each month (but only up to 120 hours) and divide by 120. Add the number of full-time employees and full-time equivalents for each month and divide by 12. This is the average number of full-time employees for the prior year. For example, if you have 35 employees working 30 or more hours per week and 25 employees working 80 hours for each month during the prior year, you would take 25 multiplied by 80 and then divide that by 120 hours per month, for a result of 16.67 full time equivalent employees. ($25 \times 80 = 2,000$, and $2,000 \div 120 = 16.67$). That would mean you employed 57 full time equivalent employees in the prior year (35 full time employees + 17 full time equivalent employees = 57), which would subject you to penalty if you did not offer health care to at least 95% of your full-time employees. If you have fewer than 50, and you offer health care, it must comply with the coverage mandates under the healthcare reform law (i.e., coverage for dependents to age 26, first dollar coverage of preventive care, no annual or lifetime limits on essential benefits, etc.). However, there is no requirement that you offer coverage or that such coverage be “affordable,” and no penalty is assessed if you fail to do so.

Are there special rules for coverage on state exchanges?

If you are eligible to purchase a small group health insurance product (currently limited to

employers that have 2 to 50 employees in Minnesota), you are able to enroll your employees in health coverage through the Small Business Health Options Program ("SHOP"). Options for enrolling in SHOP insurance are through an insurance company or with the assistance of a SHOP-registered agent or broker. More information on SHOP coverage in Minnesota is available through the MNSure website (<https://www.mnsure.org/>)

Do I have to report health care costs on my employee's W-2?

If you file fewer than 250 W-2's in the year prior, you are exempt from reporting health care costs on your employee's W-2. The IRS has indicated that this exemption will apply until they provide further guidance and has promised to give at least 6 months for employers to modify practices if they need to begin reporting this information in the future.

What is a SIMPLE cafeteria plan?

An employer with 100 or fewer employees during either of the two preceding years may adopt a SIMPLE Cafeteria Plan to allow employees to pay for eligible health, dental, vision and other employer sponsored plan premiums on a pre-tax basis without worrying about nondiscrimination rules or testing. To qualify, the small employer must make contributions to the plan (a) that are equal to a uniform percentage (not less than 2 percent) of the employee's compensation for the plan year, or (b) equal to twice the employee's salary reduction contributions, up to a maximum of 6% of the employee's compensation for the plan year. SIMPLE cafeteria plans must also comply with eligibility and participation requirements.

What other healthcare reform requirements or changes apply to all employers?

1. There is a limit on medical care flexible spending accounts that did not exist prior to this year. As of plan years beginning on or after 1/1/2021, the new limit is \$2,750 per person. The 2022 limit is expected to be released in the fall of 2021.
2. Health insurance issuers and group health plans are required to provide covered employees with an easy-to-understand summary about a health plan's benefits and coverage. This is called a Summary of Benefits and Coverage, or SBC.
3. The law prohibits health plans from placing a lifetime and annual dollar limit on most benefits, specifically those determined to be essential health benefits.
4. If an employer health plan covers children, employees can add or keep their children on your health insurance policy until they turn 26 years old. Children may join or remain on an employer plan even if they are: married, not living with the employee, are attending school, are not financially dependent on the employee, or are eligible to enroll in their employer's plan.
5. Employers must disclose certain information regarding the health insurance exchanges to all employees within 14 days of hire. A model notice is available.
6. The Cadillac Tax was repealed in December 2019.

There are other provisions and compliance issues associated with healthcare reform for all employers such as requirements for coverage of preventive care, prohibitions against pre-existing exclusions, essential benefits, and other employee protections. Your city should check with your health insurance carrier or consultant to ensure that it is following all health plan benefit

requirements. The League will continue to partner with Gallagher Benefits Services to provide updates as new information and resources regarding compliance requirements become available.

Can I get a special health insurance tax credit?

The good news for some small employers is that you might be entitled to a tax credit if you provide health insurance to your employees if you buy SHOP insurance. The maximum credit is 50 percent of premiums paid in 2021 by eligible small business employers and 35 percent of premiums paid by eligible employers that are tax-exempt organizations. The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ low- and moderate-income workers. It is generally available to employers that have fewer than 25 full-time equivalent (FTE) employees paying wages averaging less than \$56,000 (in 2020; as of the date of this information, the 2021 wage average has not been announced) per employee per year. Because the eligibility formula is based in part on the number of FTEs, not the number of employees, many businesses will qualify even if they employ more than 25 individual workers.

Eligible small businesses can claim the credit as part of the general business credit on their income tax returns. Tax-exempt employers are also offered the opportunity to claim the credit.

More information on SHOP insurance and the tax credit is available at:

<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/SHOP>

What about Individual Coverage HRAs (ICHRAs)?

Effective January 1, 2020, ICHRAs provided a new benefit option for employers by allowing employers to offer HRAs to reimburse individual insurance premiums for coverage, including Medicare. For example, individual insurance coverage includes:

Individual insurance coverage purchased on an ACA Exchange;

- Individual insurance coverage purchased outside of an ACA Exchange (including coverage purchased through a private exchange model);
- Student health insurance coverage; or
- Catastrophic health insurance coverage.

Medicare coverage includes Medicare Parts A and B or Part C.

In order to provide ICHRA reimbursement coverage of individual premiums, the employer program must satisfy the following conditions:

- Employers cannot offer any employee a choice between an ICHRA and a traditional group health plan.
- Covered individuals must be enrolled in individual insurance coverage (or Medicare coverage).
- Employers must generally offer the ICHRA on the same terms to all employees within a class of employees.
- ICHRAs must implement and comply with procedures to substantiate that participants and each dependent are enrolled in individual health coverage.
- Employers must provide an annual notice to covered employees.

- Employees must be permitted at least an annual opportunity to opt out of an ICHRA so they can claim premium tax credit under the ACA if they are otherwise eligible for the credit and the ICHRA is considered unaffordable.

In addition, an ICHRA may provide for reimbursement of expenses for medical care, as defined under Internal Revenue Code (Code) section 213(d). An employer has discretion to specify which medical care expenses are eligible for reimbursement from its ICHRA. An employer may allow an ICHRA to reimburse all medical care expenses, may limit an ICHRA to allow reimbursements only for premiums, may limit an ICHRA to allow reimbursements only for non-premium medical care expenses (such as cost-sharing) or may designate specific medical care expenses that will be reimbursable.

Substantiation procedures may consist of documentation by a third party (for example, an insurance card or explanation of benefits document) or a participant's attestation. In general, the deadline for providing this substantiation cannot be later than the first day of the plan year. After this initial substantiation, the ICHRA must require participants to substantiate this individual insurance coverage prior to each expense reimbursement.

General

This sample document is for a hypothetical organization and is provided for illustrative purposes only; GBS does not guarantee or warrant its accuracy or applicability to your company's circumstances. It should not be used "as is" for any purposes as it may not apply to your factual situation. Consult your legal counsel if you wish to use this sample as a starting point for your organization.

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