

CITY OF BEMIDJI



PERSONNEL POLICIES

Updated & recommended by the Labor Management Committee
March 29, 2016

Adopted by the Bemidji City Council
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201.101 – Purpose

- (A) It is the purpose of this Personnel Policy Manual to establish a uniform system of personnel administration, to set forth standards for workplace performance and conduct, and describe employee benefits for employees of the City of Bemidji. They are not intended to be all-inclusive or to cover every situation that may arise.

201.102 – Scope

- (A) The Personnel Policies established and adopted for the City are set in the following articles. Upon adoption of these policies by resolution of the City Council (the “Council”), the policies shall constitute, and be referred to as, the official "Personnel Policies" of City of Bemidji (the “City”). The provisions hereof shall apply to all employees of the City, except that, in case of conflict between applicable statute or ordinance, the statute or ordinance, shall prevail. Responsibility and authority for implementation and administration of these policies is vested in the City Manager, except as otherwise specifically provided herein.
- (B) Any employee included in a collective bargaining agreement entered into in accordance with Public Employment Labor Relations Act shall be exempt from any provision in this policy which is inconsistent with such collective bargaining agreement. Any employee within the jurisdiction of a personnel board or civil service commission established under Minnesota Statutes Chapter 44, 419, or 420 is exempt from any provision of this part which is inconsistent with such a statute or rules and regulations adopted thereunder.
- (C) Nothing in this policy is intended to modify or supersede any provision of the Veterans' Preference Act.

201.103 – General Application of the Personnel Policy Manual

- (A) These personnel policies and any amendment thereto, unless otherwise specified in the resolution adopting the amendment, shall be applicable to all present and future employees of the City except elected officials, appointed board and commission members, and volunteers.
- (B) Nothing in these policies is, or is intended to be, a contract of employment between the City and any employee or person offered employment, or grant a right to any such employee or person to be continued in the employment of the City, or to limit the right of the City to discharge any of its employees.
- (C) The Council reserves the right to alter or eliminate any benefit and to revise these policies. Any such alteration, elimination, or revision shall be applicable to current, as well as future, employees.
- (D) Departments may have special work rules deemed necessary by the department head and approved by the City Manager.
- (E) The City Council may vary rules and regulations for the City Manager position.

201.104 – Amendment to Policies

- (A) Amendments to these policies may be proposed by the Labor Management Committee, the City Manager, or any member of the Council. No part of this policy may be changed or deleted without said amendment being placed on the agenda of a regularly scheduled Council meeting for discussion, discussion held, and motion made to place final disposition of said amendment, as an agenda item, for the next regularly scheduled meeting of the Council.

201.105 – Equal Employment Opportunity Policy Statement

- (A) The City of Bemidji 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 will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, political affiliation, or membership on a local human rights commission.

201.106 – Administrative Policies

- (A) The City Manager may issue administrative policies for the purpose of enforcement, implementation, or clarification of these personnel policies. Such policies shall be effective on the date specified and shall be placed on record. These policies are open to public inspection during normal working hours. In case of any conflict between the personnel policies and any administrative policies, the personnel policies shall prevail. The Council may, by resolution, repeal any administrative policy.

201.107 – Violation

- (A) Violation of these policies may result in disciplinary action in accordance with these policies and/or applicable collective bargaining agreement.

201.201 – Affirmative Action / Equal Employment Opportunity

- (A) The City of Bemidji has occasion to receive various State and Federally funded grants. Minnesota Statute Section 363A.36, Subdivision 1, encourages municipalities to establish and adopt affirmative action plans to address the employment of minority persons, women, and the qualified disabled, and to submit the plan to the Commissioner of Human Rights. As such, the City of Bemidji has adopted the following Policy Statement as part of its Affirmative Action / Equal Employment Opportunity Plan:

The City of Bemidji will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, sex, disability, age, marital status, sexual orientation, or status with regard to public assistance. The City of Bemidji shall not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified.

The City of Bemidji agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified women, minorities, and disabled individuals without discrimination in upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

The City of Bemidji will use its best efforts to afford minority and female business enterprises with the maximum practicable opportunity to participate in the performance of subcontracts for construction projects that the City engages in.

All solicitations and advertisements for employees placed by the City of Bemidji (or in behalf of the City by subcontractors) will state that all qualified applicants will receive consideration for employment regardless of their race, color, creed, religion, national origin, sex, disability, age, marital status, sexual orientation, or status with regard to public assistance by advertising the phrase "The City of Bemidji is an Equal Employment Opportunity Employer."

Help wanted ads shall not indicate a preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for a particular job involved.

Special efforts will be made to include minority, female and disabled persons on the personnel relations staff.

The City of Bemidji will commit the necessary time and resources, both financial and human, to achieve the goals of Equal Employment Opportunity and Affirmative Action.

The City of Bemidji fully supports incorporation of non-discrimination and Affirmative Action rules and regulations into contracts.

The City of Bemidji will evaluate the performance of its management and supervisory personnel on the basis of their involvement in achieving these Affirmative Action/Equal Employment Opportunity objectives as well as other established criteria. Any employee of the City, or subcontractor to the City, who does not comply with the Equal Employment Opportunity Policies and Procedures as set forth in this Statement and Plan will be subject to disciplinary action. Any subcontractor not complying with all applicable

Equal Affirmative Action laws, directives and regulations of the Federal State and Local governing bodies or agencies thereof, specifically Minnesota Statutes 363 will be subject to appropriate legal sanctions.

The City of Bemidji has appointed staff to manage the Affirmative Action/Equal Employment Opportunity Program. Responsibilities include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this Affirmative Action Program, as required by Federal, State and Local agencies. The City Manager of Bemidji will receive and review reports on the progress of the program. If any employee or applicant for employment believes he/she has been discriminated against, please contact the City Manager, 317 4th Street NW, Bemidji, MN 56601, or call 218-759-3565.

- (B) It is the policy of the City to recruit and select the best qualified persons for positions within the City. The recruitment and selection process shall provide fair and equal opportunity for all qualified applicants. If the position falls under a collective bargaining agreement, and all relevant job qualifications are equal, first consideration will be given to a current employee within the applicable bargaining unit. This policy applies to all positions: seasonal; temporary; permanent; part-time; and full-time, unless specifically waived by the City Council.
- (C) The City is an affirmative action, equal opportunity employer and shall follow all applicable state and federal employment law.
- (D) A copy of the City's Affirmative Action / Equal Employment Opportunity Plan will be distributed to all employees annually and/or upon revision.

201.202 – Types of Appointments

- (A) Full-Time Appointment - This is an appointment to a position which is computed at a full-time rate and for which all fringe benefits offered by the City are available, as specified in these policies, providing it is also a permanent position.
- (B) Emergency Appointment - In order to prevent stoppage of public business or loss or serious inconvenience to the public, appointment of a temporary employee may be authorized by the department head, within the departmental budget. A vacancy of which a department head has had reasonable notice, or an employment condition of which they had, or might with due diligence have had previous knowledge, shall not be filled by an emergency appointment.
- (C) Part-Time Appointment - This is an appointment to a position which is paid at an hourly rate and for which the fringe benefits are not available, except as required by Federal or State law or provided for elsewhere in these policies.
- (D) Temporary Appointment – An appointment to a position predetermined at the time of hiring to be a period of six (6) months or less. Temporary position also means a position occupied by a person hired as a temporary replacement.
- (E) Seasonal Appointment – An appointment where the nature of the work or its duration are related to a specific season(s) of the year, regardless of whether or not the employer anticipates that the same employee will return to the position each season in which it becomes available. The entire period of employment in a year must be used to determine whether or not a position may be excluded as seasonal when there is less than a 30-day break between one seasonal position and a subsequent seasonal position.

- (F) Internship Appointment – An intern is typically a student working for the City through a program offered by a school. Normally, internships are performed by students who have already graduated, or are preparing to graduate, from a program and are willing to do an internship to gain work experience in their field of study. Depending upon the program and the City, the internship may be paid or unpaid.

201.203 – Probationary Period

- (A) All employees will be subject to a standard probationary period of one hundred eighty (180) days from their first duty day following appointment. However, Seasonal or Temporary employees will be subject to a probationary period of thirty (30) days. The probationary period is an integral part of the selection process and shall be utilized for observing the employee's work, for securing the most effective adjustment of the employee for the position, and for rejecting any employee whose performance does not meet the required work standards.
- (B) The City Manager may terminate an employee at any time during the probationary period if, in the City Manager's opinion, the working test indicates that the employee is unable or unwilling to perform the duties of the position satisfactorily or that their habits and dependability do not merit continuance in the position. The employee so terminated shall be notified in writing by the City Manager of the reasons for the termination and shall not have the right to appeal unless they are a veteran, in which case the procedure prescribed in Minnesota Statute 197.46 shall be followed.
- (C) An employee who fails to successfully complete the probationary period for a position to which they were promoted or transferred, shall be placed on a leave of absence without pay. When a vacancy arises in the class from which the employee was promoted or transferred, such employee shall be reinstated to that position.
- (D) At least ten (10) days prior to the expiration of the probationary period, the employee's supervisor shall complete and submit a Performance Evaluation for Probationary Period for the employee. Only authorized evaluation forms shall be used per the Performance Evaluations Policy.
- (E) Based upon the performance evaluation, supervisors shall recommend to the City Manager that:
 - 1) The employee be appointed to permanent status;
 - 2) The employee be terminated; or
 - 3) The probationary period be extended for another ninety (90) days to allow for further training and/or observation.
- (F) The City Manager shall act upon the recommendation of the employee's supervisor. The City Manager reserves the right to affirm the supervisor's recommendation, overturn the recommendation, or modify it in any manner which he/she deems appropriate.
- (G) In the absence of a supervisor's recommendation, an employee is deemed to have satisfactorily completed their probationary period.

201.204 – Hiring Procedures

- (A) Determination of Open Position – Department Heads shall notify the City Manager when a vacancy exists. Such notification will include a recommendation for replacement and any changes in the applicable position description. The City Manager will determine if the position description is appropriate and if the position will be recruited.

- (B) Recruitment Protocol –The recruitment process shall include, at a minimum, the following:
 - (1) City Application – Applicants for any City position will complete the City job application and related forms as found on the City’s web site.

 - (2) Internal Recruitment – Position vacancies shall be posted on the official City bulletin board and applicable departmental employee bulletin board(s) for a period of not less than 5 working days or other period of time as stated in a relevant bargaining unit contract. The posting shall include, but is not limited to: 1) title of position, 2) salary scale, 3) a description of the essential responsibilities and duties, 4) immediate supervisor, 5) the application deadline, 6) any test to be given and, 7) minimum qualifications. Interested internal applicants shall submit the same paperwork that is required of outside applicants.

 - (3) External Recruitment – An external recruitment shall be conducted at the same time as the internal recruitment process. Announcements for positions shall be placed in newspapers and other job related publications for a period of time necessary to attract qualified candidates, but not less than 10 days.

- (C) Selection Process –The selection of applicants shall include, but not be limited to, the following:
 - (1) Education, Training, and Experience – The Department Head shall review all applications and apply standardized points to each application based on qualifications for the job. Ratings shall be based on a 100-point scale with point values assigned to education, training, and experience prior to advertising the position. Those applicants who do not meet the minimum qualifications shall not be considered.

 - (2) Eligibility List - The Department Head shall be responsible for the creation of an eligibility list of qualified persons. The eligibility list shall be valid for a minimum of 90 days from date of establishment, but not more than 2 years.

 - (3) Testing – Applicants meeting minimum qualifications may be asked to participate in further testing conducted under the direction of the Department Head. This testing may vary depending upon the position but may include one or more of the following tests: written; ability; achievement; performance; physical agility; and/or dexterity. The Department Head shall make test scores available to the individual who completes a test. Completed exams and/or answer keys to the exam shall not be provided to any applicant.

 - (4) Veteran's Preference - The City shall provide additional points in rating qualified veterans as determined by Minnesota Statute 197.46; 5 points for honorably discharged veterans and 10 points for disabled veterans.

- (5) Interview - Upon completion of the rating, and any other testing, the Department Head should offer at least the top 3 candidates an interview. The interview shall be based on the use of structured questions relating to the responsibilities and duties to be performed in the position. The interview team will include the Department Head, any other direct supervisor of the position, and additional staff as desired.

(D) Appointment and Notification

- (1) The Department Head shall recommend the candidate most qualified for the position to the City Manager who will make the final hiring decision.
- (2) The candidate selected for the position shall be notified in writing of the following information before their first day of work: 1) position offered; 2) anticipated starting date and time; 3) position classification (i.e. exempt/non-exempt, salaried/hourly, part-time/full-time, department head, etc.); 4) compensation and any anticipated probationary increases; 5) their immediate supervisor's name; and 6) any deviation from the personnel policies or collective bargaining agreement.
- (3) All offers of employment shall be contingent upon successful reference checks and completion of any required criminal background investigation or other background investigation appropriate for the position and consistent with State and Federal laws.
- (4) Offers of employment may also be contingent upon the successful completion of a psychological and/or pre-employment physical examination consistent with State and Federal laws.
- (5) All applicants must be notified in writing, and by telephone if desired, as soon as practicable after they have been eliminated from consideration for the position.

201.205 – Nepotism Policy

- (A) No person serving as a member of the City Council shall be eligible for employment with the City.
- (B) No supervisor or elected official shall participate in or vote on decisions related to hiring, retention, promotion, or determination of the salary level of a member of their immediate family. No elected official or employee shall have supervisory responsibility for an immediate subordinate who is a member of their immediate family. For this policy, immediate family is defined as someone's spouse, parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law and adopted, half and step members.
- (C) The foregoing restrictions do not preclude consideration of a relative of an elected official or supervisor for City employment except as specifically restricted herein. Evidence should be available demonstrating that procedures of the personnel policies were followed during the selection process and that the most qualified person was selected.
- (D) Paid-on-call Firefighters will typically be granted an exception to this policy. Compensation, promotion, and discipline decisions must be reviewed by the City Manager in situations where an employee is supervised by a relative.

201.206 – Change of Employment Status

- (A) Promotion Policy - Vacancies in positions are encouraged to be filled by promotion of qualified City employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.
- (B) Promotion Without Examination - The City Manager may authorize the promotion, without competition, of a qualified employee upon the presentation by their supervisor of a written statement showing that the duties performed by the employee are a natural preparation for the higher position, and that such employee is the most qualified employee for the position.
- (C) Transfers - An employee may be transferred to a similar position in a different department. An employee desiring to be transferred should make a written request to their supervisor for consideration when a vacancy occurs. The request must be approved by the current supervisor, the City Manager, and the supervisor receiving the employee. Transfer of an employee may be permitted when the supervisor determines that the employee meets the qualifications of the position, that the transfer is in the best interest of the City, and that further training and development of the employee in the new position would be beneficial to the City.
- (D) Demotions - An employee may be demoted to a position of lower grade at the discretion of their supervisor, subject to the approval of the City Manager. Reasons for the demotion shall be detailed in a written statement.
- (E) Lay-offs - If it is necessary to reduce personnel, temporary employees and those serving a probationary period in affected job classifications will be laid off before full-time employees in those job classifications. The selection of employees to be retained shall be based on merit and ability as determined by the department head, subject to approval of the City Manager. Reduction of department head positions shall be at the sole discretion of the City Manager. A minimum of a written two-week notice shall precede any layoff.
- (F) Resignation / Retirement - Any employee wishing to leave the municipal service in good standing, as determined by the City, shall file a written resignation with her/his department head at least fourteen (14) calendar days (30 days for department heads) before leaving. Exit interviews will be given to all employees by their supervisor and the required Exit Questionnaire shall be completed and included in the personnel file of that employee. Failure to comply with this procedure may be considered cause for denying such employee future employment by the municipality and denying terminal leave benefits. Unexcused absence from work for a period of three working days may be considered a voluntary resignation without benefits.
- (G) Termination – Employees terminated for misconduct will be denied terminal leave benefits. Minnesota State Statute 268.095 Subd. 6 (a)-(b), defines “employment misconduct” as:
 - 1) Any intentional, negligent, or indifferent conduct, on the job or off the job (1) that displays clearly a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee, or (2) that displays clearly a substantial lack of concern for the employment.
 - 2) Conduct that is a direct result of the employee’s chemical dependency is not

employment misconduct unless the employee was previously diagnosed chemically dependent or had treatment for chemical dependency, and since that diagnosis or treatment has failed to make consistent efforts to control the chemical dependency.

- (H) Phased Retirement Option (PRO) – Pursuant to Resolution 5600 passed by the City Council on December 7, 2009, and amended on April 5, 2010, the City recognizes it may be to its benefit to offer a PERA Phased Retirement Option to certain staff either to enhance knowledge transfer to other staff, retain a key staff person until a replacement can be found or to reduce the hours of some staff for budgetary savings.

The City Manager will serve as the designated coordinator for the PERA phased retirement option program and will identify employees eligible to participate in the program, determine whether there is a benefit to the city in offering the program to those employees, and will coordinate communication and implementation of the program to those suitable for the program.

If an employee qualifies for the phased retirement option and the City agrees to implement the option, prorated benefits shall be paid to the employee in addition to their salary compensation. Prorated benefits include the cafeteria contribution, paid holidays, accrual of paid-time-off, vacation and/or sick leave.

201.207– Paid-on-call Firefighter Hiring Policy

The City of Bemidji recognizes the value of allowing regular full-time employees to also serve as Paid-on-call Firefighters with the Fire Department. By doing so, the City expects to help fill Fire Department vacancies, efficiently provide fire protection and rescue services with staff already committed to serving the community, and set an example for other employers to allow their employees to serve on the Fire Department and respond to emergency calls during normal work hours whenever possible. Therefore, the City will allow regular full-time employees to serve as Paid-on-call Firefighters provided the following criteria and requirements are met:

1. Current employees wishing to serve as a Paid-on-call Firefighter must follow the normal hiring procedures for the position (including formal application, training and experience rating, written exam, oral interview, physical agility test, Chief's interview, pre-employment drug test, medical exam and possible background investigation).
2. Any offer of employment as a Paid-on-call Firefighter to an existing City employee, or any offer of City employment to an existing Paid-on-call Firefighter, shall be contingent upon the execution of an "Agreement to serve as Paid-on-call Firefighter" acknowledging details such as primary duties, priorities, supervisor authority, compensation and overtime hours. The employee's regular full-time position shall be considered their primary employment.
3. Exempt employees may serve as a Paid-on-call Firefighter, but will not receive separate compensation from the City and are not eligible for overtime pay.
4. With supervisor approval, employees will be allowed to respond to paged emergency calls with the Fire Department. However, Supervisors and/or Department Heads shall have full authority to approve or deny, for any reason, an employee's request to respond to an emergency call during regular working hours.
5. Employees shall return to their primary position once the emergency call has ceased and accurately reflect the absence on their timesheet.

6. When affected non-exempt employees respond to paid-on-call emergency responses, calls, drills, meetings, training or other approved activities during normal working hours, they shall use comp time, paid-time-off (PTO) and/or floating holiday hours to fulfill their normal primary 40-hour workweek. All Fire Department related hours will then be reported on a separate timesheet, treated as overtime hours and paid at a rate of one and one-half (1.5) times the hourly firefighter rate. For example, a full-time city employee also serves as a Paid-on-call Firefighter. During the workweek, the employee works 37 hours in his/her primary position and responds to a 5-hour fire call (3 of which were during normal working hours). The employee will report 37 hours worked plus 3 hours of PTO on their normal timesheet and 5 hours on their Fire Department timesheet, which will be paid at a rate of one and one-half (1.5) times their firefighter rate.
7. All overtime related to paid-on-call hours must be paid (overtime hours accrued shall not be granted as compensatory time in lieu of overtime pay).
8. Employees who are on pre-approved leave such as vacation, floating holiday or personal leave identified as paid-time-off (PTO) or compensatory time (comp time) may respond to emergency calls. In this case, declared PTO, comp time and/or holiday hours will NOT be adjusted if the employee responds to an emergency call, drill, meeting, training or other approved activity as those hours should be reported on the Fire Department timesheet. Employees responding to calls on a holiday will be paid at their normal firefighter rate, unless otherwise stipulated in an executed labor agreement and/or the Fair Labor Standards Act (FLSA).
9. Department Heads have the authority to establish reasonable department-specific rules and guidelines to ensure their department operates as needed.
10. If an employee violates any portion of this policy, the agreement may be terminated and/or the employee may be subject to disciplinary action, up to and including termination.
11. Failure to comply with the criteria and requirements set forth in this policy may result in the retraction of the agreement and the City retains the right to retract the agreement at any time for any reason.
12. The agreement shall become null and void if/when the employee retires, resigns or is terminated from either their primary or paid-on-call position.
13. City employees hired as paid-on-call firefighters may also be eligible to become members of the Bemidji Firefighter's Relief Association and receive the benefits provided to its members.

City of Bemidji
Agreement to serve as Paid-on-call Firefighter
(in addition to regular full-time employment)



_____ (hereinafter the Employee) has primary employment in a full-time capacity with the City of Bemidji. The Employee has also been offered a position as a Paid on-call Firefighter with duties separate from and unrelated to his/her primary employment and will be performing two different types of work that are normally compensated at different rates of pay.

- Exempt employees may serve as a Paid-on-call Firefighter, but will not receive separate compensation from the City and are not eligible for overtime pay.
- When affected non-exempt employees respond to paid-on-call emergency responses, calls, drills, meetings, training or other approved activities during normal working hours, they shall use comp time, paid-time-off (PTO) and/or floating holiday hours to fulfill their normal primary 40-hour workweek. All Fire Department related hours will then be reported on a separate timesheet, treated as overtime hours and paid at a rate of one and one-half (1.5) times the hourly firefighter rate. For example, a full-time city employee also serves as a Paid-on-call Firefighter. During the workweek, the employee works 37 hours in his/her primary position and responds to a 5-hour fire call (3 of which were during normal working hours). The employee will report 37 hours worked plus 3 hours of PTO on their normal timesheet and 5 hours on their Fire Department timesheet, which will be paid at a rate of one and one-half (1.5) times their firefighter rate.

I hereby acknowledge that I have read the **Paid-on-call Firefighter Hiring Policy** (Section 201.207 of the Personnel Policies), as printed in its entirety on the reverse side of this form, and understand it is my responsibility to meet the criteria and requirements contained therein.

Employee's Printed Name

Date

Employee's Signature

As the Employee's supervisor, I acknowledge that I have also read and understand the **Paid-on-call Firefighter Hiring Policy** (Section 201.207 of the Personnel Policies), as printed in its entirety on the reverse side of this form, have contemplated the affect the employee's service may have on the department and other staff, and hereby approve the Employee's appointment as a Paid-on-call Firefighter with the Bemidji Fire Department.

Supervisor's Printed Name

Date

Supervisor's Signature

PAID-ON-CALL FIREFIGHTER HIRING POLICY (SECTION 201.207)

The City of Bemidji recognizes the value of allowing regular full-time employees to also serve as Paid-on-call Firefighters with the Fire Department. By doing so, the City expects to help fill Fire Department vacancies, efficiently provide fire protection and rescue services with staff already committed to serving the community, and set an example for other employers to allow their employees to serve on the Fire Department and respond to emergency calls during normal work hours whenever possible. Therefore, the City will allow regular full-time employees to serve as Paid-on-call Firefighters provided the following criteria and requirements are met:

1. Current employees wishing to serve as a Paid-on-call Firefighter must follow the normal hiring procedures for the position (including formal application, training and experience rating, written exam, oral interview, physical agility test, Chief's interview, pre-employment drug test, medical exam and possible background investigation).
2. Any offer of employment as a Paid-on-call Firefighter to an existing City employee, or any offer of City employment to an existing Paid-on-call Firefighter, shall be contingent upon the execution of an "Agreement to serve as Paid-on-call Firefighter" acknowledging details such as primary duties, priorities, supervisor authority, compensation and overtime hours. The employee's regular full-time position shall be considered their primary employment.
3. Exempt employees may serve as a Paid-on-call Firefighter, but will not receive separate compensation from the City and are not eligible for overtime pay.
4. With supervisor approval, employees will be allowed to respond to paged emergency calls with the Fire Department. However, Supervisors and/or Department Heads shall have full authority to approve or deny, for any reason, an employee's request to respond to an emergency call during regular working hours.
5. Employees shall return to their primary position once the emergency call has ceased and accurately reflect the absence on their timesheet.
6. When affected non-exempt employees respond to paid-on-call emergency responses, calls, drills, meetings, training or other approved activities during normal working hours, they shall use comp time, paid-time-off (PTO) and/or floating holiday hours to fulfill their normal primary 40-hour workweek. All Fire Department related hours will then be reported on a separate timesheet, treated as overtime hours and paid at a rate of one and one-half (1.5) times the hourly firefighter rate. For example, a full-time city employee also serves as a Paid-on-call Firefighter. During the workweek, the employee works 37 hours in his/her primary position and responds to a 5-hour fire call (3 of which were during normal working hours). The employee will report 37 hours worked plus 3 hours of PTO on their normal timesheet and 5 hours on their Fire Department timesheet, which will be paid at a rate of one and one-half (1.5) times their firefighter rate.
7. All overtime related to paid-on-call hours must be paid (overtime hours accrued shall not be granted as compensatory time in lieu of overtime pay).
8. Employees who are on pre-approved leave such as vacation, floating holiday or personal leave identified as paid-time-off (PTO) or compensatory time (comp time) may respond to emergency calls. In this case, declared PTO, comp time and/or holiday hours will NOT be adjusted if the employee responds to an emergency call, drill, meeting, training or other approved activity as those hours should be reported on the Fire Department timesheet. Employees responding to calls on a holiday will be paid at their normal firefighter rate, unless otherwise stipulated in an executed labor agreement and/or the Fair Labor Standards Act (FLSA).
9. Department Heads have the authority to establish reasonable department-specific rules and guidelines to ensure their department operates as needed.
10. If an employee violates any portion of this policy, the agreement may be terminated and/or the employee may be subject to disciplinary action, up to and including termination.
11. Failure to comply with the criteria and requirements set forth in this policy may result in the retraction of the agreement and the City retains the right to retract the agreement at any time for any reason.
12. The agreement shall become null and void if/when the employee retires, resigns or is terminated from either their primary or paid-on-call position.
13. City employees hired as paid-on-call firefighters may also be eligible to become members of the Bemidji Firefighter's Relief Association and receive the benefits provided to its members.

201.301 – Employee Conduct

- (A) Upon accepting City employment, employees become representatives of the City and the following conduct is expected:
1. Assisting and serving the citizens for whom they work.
 2. All employees and elected officials are expected to conduct themselves in a manner which reflects favorably on the City and which demonstrates tact, courtesy, and good judgment.
 3. Complying with established policies, rules, and procedures and following the instructions of their supervisors and department heads.

201.302 – Employee Responsibilities

- (A) An employee's primary responsibility is to serve the residents of Bemidji. Daily responsibilities include:
1. Performing assigned duties to the best of their ability at all times and continually striving to improve performance.
 2. Rendering prompt and courteous service to the public at all times.
 3. Reading, understanding, and complying with the rules and regulations as set forth in these Personnel Policies as well as department work rules.
 4. Reporting all unsafe conditions to their immediate supervisor.
 5. Maintaining good attendance.

201.303 – Falsification of Records

- (A) No person shall make false statements, certificates, marks, ratings, or reports in regard to any test, certificate, or appointment held or made under the City personnel system, or in any manner commit or attempt to commit any fraud.

201.304 – Gifts / Gratuities / Solicitations

- (A) No employee of the City, or City official, shall solicit, receive, or accept, directly or indirectly, any gift, gratuity, reward, favor, entertainment, remuneration, loan, or any other thing of monetary value, from any person who has, or is seeking to obtain, a contractual, business, financial, or other relationship with the City.
- (B) Employees may be permitted to accept food and refreshments in the ordinary course of a business meeting or during an inspection tour where an employee is properly in attendance. Employees may be permitted to accept promotional material such as pens, pencils, note pads, calendars, and other items of nominal value that have not been solicited by the employee.
- (C) Outside solicitations of any kind are not permitted in City buildings. City employees are permitted to have sign-up sheets for school/organizational fundraisers for solicitation between employees provided the solicitation does not interfere with workplace performance and productivity.

201.305 – Personal Use of City Property

- (A) City property is available for employees to use for official business. Personal use of City property is limited and requires prior supervisory or department head approval. This includes use of City vehicles, machinery, tools, equipment, buildings, paid work time, telephones, fax machines, copy machines, office supplies, cellular phones, computers, internet services and any other piece of property owned by the City. Disciplinary actions shall be taken in the event of abuse or misuse of City property, as determined by the City.
- (B) Personal Use of City Vehicles
1. Personal Use Defined – Personal use is any use of a City vehicle other than that required to perform an employee’s assigned duties. Examples of personal use would include:
 - (a) Use of a City vehicle for commuting to and from your normal place of work;
 - (b) Taking a City vehicle home for the evening or for breaks;
 - (c) Shopping for and/or transporting items that are not job related;
 - (d) Transportation of family members or others not directly related to City business. However, family members attending a conference or seminar with a City employee may be passengers in a City vehicle; and
 - (e) Any other non-work use of a City vehicle.
 2. Except in the case of an emergency, any ongoing personal use of a City vehicle must have prior Council approval. The Council, or a department head on an occasional or incidental basis, may also direct an employee to take a vehicle home if it is to the City’s advantage to do so. Council approval does not remove the tax consequences of personal use.
 3. Internal Revenue Services (IRS) rules and regulations will be followed when employees are allowed the personal use of a City vehicle. Those rules and regulations require the employer to report vehicle benefits as income to the employee on their annual W-2 form. The amount of that income will be determined by either a mileage rate (the current IRS mileage rate) or an imputed annual lease rate (the current IRS lease rate) less any business use.
 4. Employees must track and report to the Finance Department any personal mileage accrued on a City vehicle by December 15th of that calendar year.
- (C) Upon termination of employment, employees are responsible for returning all property, tools and equipment belonging to and/or furnished by the City. This includes items such as keys, cellular telephones, safety equipment, clothing, etc.

201.306 – Acceptable Use for Telephones, Electronic Communications & Internet

- (A) Purpose – The City recognizes that phone and computer systems are becoming increasingly interconnected and sophisticated in their ability to create, disseminate and store electronic messages, along with an increased potential for the inappropriate release of non-public data. The City has developed policies and guidelines regarding the use of all electronic communications systems and information transmitted through or stored in those systems. The computer and communications systems operated by the City for the conduct of business are the property and work environment of the City and all City policies relating to personal conduct apply to access to and use of these resources.

- (B) Scope – The Internet and the public and private telephone systems have become a de facto standard for communication between disparate governmental, commercial organizations and private citizens. Communications traffic may cross multiple and different networks prior to reaching the client destination. Yet the public has a high reliance on the integrity and accuracy of data shared from the City. This policy applies to all City system users regardless of location, status, or ownership. Each system user is responsible for adhering to the guidelines and policies regarding the use of these systems to protect the accuracy, integrity, and dependability of the organization’s electronic systems and information. The Internet, for purposes of this policy, includes any entity having an Internet address.

The variety of phone, computing, and electronic communication access tools that the City provides its employees include: desktop, laptop, mobile, and central computers; internal and external networks; electronic mail; facsimile (fax) systems; cellular telephones, and voice mail. These tools are city-owned and publicly-funded. The computer systems and the software and information contained on or conveyed through them are the property of the City. Access and use are restricted by this policy.

By addressing the issue of computer communications, the City ensures maximum benefits by recognizing a critical and defined balance between the need for operational communications and the protection of City assets. Each system may, at times, have its own set of policies and procedures. In those cases where communications are carried across other regional networks of the Internet, employees of the City are advised that this Acceptable Use Policy takes precedence over acceptable use policies of those other systems.

- (C) Privacy Issues – Users have no expectation of privacy in using these electronic systems. No communication using these systems should be considered private or personal. Record retention policies apply to electronic communications; users should assume that even deleted messages are retrievable at a later date. The City can and will inspect information stored in or transmitted through its electronic systems. By using the City's computers or networks, the employee is voluntarily consenting to being monitored and waives any claims to privacy. Department Heads, supervisors, or other authorized personnel may inspect the computers or review electronic communications of employees to determine whether there has been any breach of security, violation of this policy, or other violation of duty on the part of any employee.
- (D) Careful Use – The City provides telephone, voice mail, fax, Internet access, and e-mail to speedily conduct the business of the City. Use of these systems will be granted by supervisors and/or Department Heads with regard to job function. Once given access, users are expected to use these systems in a responsible manner at all times. All usage should be able to withstand public scrutiny without embarrassment to the City.
- (E) Content – System users are responsible for the content of all text, audio, and video sent using the Internet or phone systems. All messages must comply with relevant Federal and State laws regarding copyright, trademark, and intellectual property. Messages must contain the user’s identity and should be written or verbalized with the same professional manner as any hard-copy correspondence. System users are not allowed to release passwords, user names, or dial-up numbers to anyone other than designated individuals. System users cannot access or modify any information without the express prior permission of the authority responsible for generating or maintaining the information. The

City's policies pertaining to harassment and other forms of workplace misconduct apply with full force and effect to the use of the City electronic communication systems.

- (F) Personal Use – The use of City electronic communication devices is a privilege, not a right. It may be revoked any time by the City. Use of telephone, cellular phone, fax, Internet access, and e-mail is permitted for personal use, provided such use:
- * does not impair the employee's workplace performance and productivity
 - * is done on the employee's personal time
 - * does not interfere with business usage
 - * does not result in any expense to the City
 - * does not contain harassing or threatening material
 - * is not performing work for profit, for personal gain, promotional use, or solicitation
 - * does not contain or infer abusive, profane, or offensive language
- (G) Inappropriate Use – Inappropriate use of telephone, fax, Internet access, and e-mail systems would include but are not limited to: participating in illegal activities, gambling, commercial activities, accessing sexually explicit or violent material; using the systems to harass or disable other systems; creation or distribution of virus or destructive programs; distribution of pirated software or stolen data; distribution of unsolicited or personal advertising; propagation of computer "worms" or viruses; using the network to make unauthorized entry to other computational, information or communications devices or resources via any network; or any other activity that injures others or the City in any way.
- (H) Employees are prohibited from engaging in web logging or "blogging" during working time or while using City-owned equipment unless such activity is directly work related and performed in the line of duty. Employees "blogging" (including but not limited to use of MySpace, Facebook, Blogspot, Friendster, or Linked In) while not on working time and while not using City equipment are reminded that they must adhere to the City's confidentiality policy and that they must avoid the disclosure of trade secrets or other information regarding the City or any of its elected officials, managers, or employees which would constitute libel or defamation. Expect that if you publish something anywhere online, the City or your co-workers will see it.
- (I) Media Contacts – Only individuals authorized by the Department Head should communicate to or respond to the public news media regarding city business. Data that is "not public" under the Minnesota Government Data Practices Act should not be transmitted in clear text over the Internet.
- (J) Presentation of the City – Requests for City information can become very time-consuming and expensive. The City may contain public access points for information about the City, and for access to City records and information. These systems should be operated only by persons specifically authorized and trained to place or remove data on such a system. Release of data to the public in other formats should be carried out through authorized channels.
- (K) Virus Scanning – Diskettes from outside the City and incoming messages containing file attachments may imperil the City systems by importing viruses. Diskettes, files, or mail attachments entering the organization's network should always be scanned for viruses before being opened or used. The user should immediately notify their immediate supervisor if a virus is detected.

- (L) Monitoring – It is a supervisory responsibility to oversee use and to determine if uses of electronic systems are appropriate to assigned work. Although content is not routinely monitored, it may occur: internally under administrative procedures; externally under subpoena, request for public data, or other legal actions; due to an unexpected absence of an employee; or for other business or technical reasons.
- (M) Cellular Phones – When determined by their supervisor that an employee should have a cellular phone, either one will be provided by the City or the City will reimburse the employee \$30 per month for access to the employee’s personal cellular phone and additional data access and voicemail charges.
- (N) Violations – The City reserves the right to treat the misuse of these resources as any other act of employment in accord with its personnel regulations. Violations of this policy will subject the user to discipline, up to and including discharge, as well as notification to law enforcement agencies when appropriate.
- (O) Records Retention – Records retention schedules, based on the context of messages, are the same regardless of the medium - paper, voice, or electronic.
- (P) Questions Regarding This Policy – City employees who have concerns or are uncertain about ethical, legal, or security issues regarding their use of electronic communications are expected to discuss their concerns with their supervisor who should act as the employee's first point of contact.

201.307 – Keys and Security

- (A) It is of absolute importance to maintain the security of City buildings, offices, computers, files, vehicles and all other City property.
- (B) Department heads and supervisory personnel will monitor and control distribution of keys for City facilities and vehicles. Keys are the responsibility of the employee to whom they were issued, and will not be shared with anyone except one’s immediate supervisor or department head. If keys are misplaced, stolen or damaged, the employee to whom the keys were issued shall report this fact to his/her supervisor immediately. Failure to report shall be grounds for discipline.
- (C) Safes, vaults and sensitive files will be securely locked at the end of the day and/or when they are to be left unattended by authorized personnel.

201.308 – Personal Appearance

- (A) Employee Appearance - Personal appearance and hygiene play an important role in projecting a professional image in the community and to the citizens, customers and visitors we serve. It is important that an employee’s personal appearance reflects favorably on the City and their department.

As a City employee, you are expected to:

- Report for work with a neat and clean appearance in attire that is professional, appropriate and suitable for your position
- Strive to project a professional image while at work and in the public eye
- Be conservative when selecting work attire
- Follow personal hygiene and daily grooming habits

- Avoid loose fitting clothing or items that may present a safety hazard in the workplace

For those working in an office setting, business casual should be the minimum standard applied. Those working in the elements or unclean environments have need for more rugged, durable clothing. However, the clothing should be clean, in good repair and serviceable.

Although it is not possible to detail every article of attire that may or may not be appropriate, it is expected that employees use good judgment and common sense when selecting their attire. Some examples of **unacceptable** attire include:

- Clothing that reveals too much cleavage, your back, your chest, your stomach or your underwear
- Clothing with pictures, words, terms or slogans that may be offensive to others
- Sleeveless shirts (e.g. tank, crop, tube, halter or off-the-should tops; muscle shirts)
- Beach wear
- Provocative, distracting or revealing attire
- Garments that are sheer, transparent or too tight
- Evening wear

Jewelry may be worn with caution, particularly in areas where the job requires use of tools and equipment, or is in proximity to moving parts, belts, machines or vehicles.

Appropriate footwear shall be worn to ensure employee safety and comfort, as determined or directed by the supervisor {see Section 201.607 (G) regarding Safety Footwear}.

Employees should always consider each day's activities when determining what to wear. If you are hosting or attending a meeting, you should plan your wardrobe accordingly. Supervisors can specify additional or alternative dress and grooming requirements based on the needs of their department or requirements necessary for employee safety.

Clothing with the City logo is encouraged and, in some cases, required {see Section 201.308 (C)}.

Department heads and supervisors are responsible for monitoring and enforcing this policy. The policy will be administered according to the following action steps:

1. If questionable attire is worn, or if there is a complaint received from a citizen, customer or co-worker, the supervisor will hold a personal, private discussion to advise and counsel the employee regarding the inappropriateness of the attire.
2. If an obvious policy violation occurs, the supervisor will hold a private discussion with the employee and ask the employee to go home and change his/her attire immediately. Under most circumstances, the employee will not be compensated for this time away from work.
3. Repeat violations of this policy will result in disciplinary action, up to and including termination.

Clothing requirements may vary from one department to another depending on the nature and location of the work, contact with the general public, and the environment. If you have

questions as to what constitutes appropriate attire for your position, contact your supervisor or department head.

- (B) Advertisements on Clothing/Hats - Employee clothing and hats will not reflect any business advertisement, other than the manufacturer's or designer's name.
- (C) Employee Uniforms - When uniforms are either paid for or provided by the City, they will be worn. Uniformed employees who choose to wear hats will wear uniform hats only when on duty. Uniforms, including hats, are not to be worn when off duty.

201.309 – Lunch and Rest Breaks

- (A) Employees who work a standard eight (8) hour day are entitled to one fifteen (15) minute break before noon and one fifteen (15) minute break in the afternoon. Employees should not normally be scheduled to work longer than 3 hours without a break. Employees who work other than normal schedules may take breaks depending upon the constraints of the working conditions within each department as determined by their supervisor.
- (B) Meal breaks are to be taken at times approved by the applicable department head. Supervisors will ensure that employees have the opportunity to take scheduled meal breaks. The meal break shall consist of 30 to 60 minutes without pay. Law enforcement and fire personnel will take meal breaks while on duty. Longer meal breaks may be arranged, with the approval of the applicable supervisor.
- (C) Supervisors are responsible to ensure that breaks are scheduled so a department is not left unattended during normal business hours.
- (D) Employees working in City buildings shall normally take their break at the place provided for that purpose in each building (exceptions may apply based on supervisory approval). Employees working outside shall normally take their break at the location of their work project. Employees whose duties involve traveling throughout the City may stop along the required route at a restaurant or other public accommodation for their fifteen (15) minute break.
- (E) Department heads may allow for the combining of breaks to accommodate departmental and/or employee needs and/or to encourage physical activity (see Section 201.905 – Physical Activity Policy), but not to shorten the employee's workday.

201.310 – Data Practices

- (A) The City conforms to the mandates of the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. The City Attorney acts as the Data Practices Compliance Official and receives questions or concerns regarding problems in obtaining access to data or other data practices problems within the City. The City Clerk acts as the Data Practices Responsible Authority for collection, use, and dissemination of any set of data.

201.311 – Political Activity

- (A) City employees are neither appointed to nor retained in City employment on the basis of their political activity, but rather on the basis of their merit, fitness, performance, and ability.
- (B) No employee of the City shall directly or indirectly, during his or her hours of employment, solicit or receive funds.

- (C) An employee or official of the City may not use official authority or influence to:
 - 1. Compel a person to apply for membership in or become a member of a political organization;
 - 2. Pay, or promise to pay, a political contribution; or
 - 3. Take part in political activity except that the City Manager may approve political activity when it supports an official position of the City such as providing information to legislators on City projects.
- (D) The City may not impose or enforce additional limitations on the political activities of its employees.
- (E) If a City employee becomes a candidate for political office, it is understood that a leave of absence without pay may need to be taken. Should the needs of the City require, the person's employment may be terminated.

201.312 – Travel and Per Diem

Employees required to travel outside of the area in the performance of their duties will have their authorized travel expenses paid by the City. No payment will be made for meals during training events held in the Bemidji area. Also, employees will not be reimbursed for a meal when the cost of the meal was included in the training fee. All travel must be done by the most reasonable cost-effective manner as determined by the City.

(A) General

City employees and elected officials may be authorized travel time and expenses to attend conferences, conventions and schools, or to conduct official city business. Travel needs, including registration, should be anticipated in advance.

It is the intent of the City to pay for or reimburse the employee or official for necessary transportation, food, lodging, registration and authorized miscellaneous expenses. Employees and officials are expected to secure accommodations and services, which are economical and fitting for the occasion. Employees attending the same function are encouraged to share transportation as is practical and reasonable.

Time spent in attending or traveling to and from training programs and meetings, for which attendance has been authorized by the department head, shall be considered time worked unless attendance is voluntary, or the program or meeting is not directly related to the employee's job.

(B) Authorization

City Manager pre-authorization is only necessary for out-of-state travel. Supervisor approval is required for all travel expenses. If the employee intends to supplement the trip time with vacation, this should be indicated on the travel request.

(C) Method of Travel

Transportation must be by the most economical means possible in terms of cost and time. If other means are used for travel, reimbursement will only be up to the least expensive

alternative. If the employee prefers to drive, any extra time required due to driving shall be taken as vacation or paid time off (PTO).

(D) Travel Expense Reimbursements

Employees and officials shall be reimbursed for travel by submitting the Travel Reimbursement Form (MR-2) to the Finance Office. City credit cards may be used to pay for travel expenses, but may **not** be used to pay for meals.

- Transportation – Mileage allowance at the current IRS allowed rate. Airfare, bus, taxi or other means reimbursed at actual cost.
- Lodging – Actual cost substantiated by receipt.
- Meals – Reimbursement for meals will be based on the General Services Administration standard out-state CONUS rates. A partial day meal allowance will be paid if less than a full day of travel is utilized. A full day meal allowance will be paid provided the employee departs by 7:00 a.m. and does not arrive earlier than 7:00 p.m.
- Miscellaneous – Registration fees, parking, taxi, telephone and other reasonable necessary expenses will be reimbursed at actual cost. Telephone reimbursement must be for documented City business purposes.

Expense reimbursements apply to employees only. Costs associated with spouses, children, or other individuals not officially representing the City are not eligible for reimbursement.

Arrangements for lodging and payment of registration fees can be handled at the department level. Manual checks will not be authorized for lodging or registration fees.

(E) Accounting for Expenses

Within 5 business days after returning from travel, each claimant must account for his or her expenses in the following manner:

1. Submit receipts for lodging, transportation (other than mileage), registration fees and any other miscellaneous items.
2. If a receipt is lost or not available, a written verification detailing the facts must be submitted and approved by the City Manager.

Claims for reimbursement must be submitted within five business days after returning from travel. Claims submitted after this time will not be reimbursed without City Manager approval.

(F) Mileage Reimbursement

The City will reimburse employees and officials for the use of their personal vehicle for conducting City business. Mileage will be reimbursed at the current IRS approved mileage rates. The employee must substantiate time, place, distance and business purpose of each trip.

For use of a City-owned vehicle, expenses will be paid for actual receipted items (i.e. gas, repairs, etc.).

Unsubstantiated mileage expenses are subject to income tax withholding and payroll taxes.

(G) City-Owned Vehicles

In order to provide for the most efficient means of transportation and to facilitate necessary off/on hour duties pertaining to a department, the City may provide a vehicle for specified departments or job classifications to be used while performing job related duties for the City.

The City will provide all fuel, maintenance, insurance and repairs for the assigned vehicle.

The City Manager shall assign the City-owned vehicle to the employee. The employee is subject to the following conditions:

- Shall use the vehicle only for the purposes of performing City related job duties.
- Shall perform routine operational checks and maintenance on vehicles/equipment they operate. Failure to perform and maintain the vehicle/equipment is grounds for disciplinary action including, but not limited to, payment for repairs.
- Shall be permitted to drive the vehicle to and from their residence per supervisor approval.
- Shall not use the vehicle for personal use. Any personal use of City-owned vehicles shall be documented and approved by the City Manager.
- Shall obey all laws and regulations established by the State of Minnesota and City of Bemidji for operation of a motor vehicle.
- Shall be obligated to pay any fines assessed against the driver for violation of any laws and regulations.
- Shall possess and maintain a current and valid Minnesota driver's license.

It will be the City policy to comply with all current income tax laws as they pertain to personal use of employer-provided vehicles.

(H) Liability Insurance / Driver's License

Employees shall not drive on City business without a valid Minnesota driver's license of the appropriate classification. Driving records of City employees who drive as part of their job, or who do have occasion to drive for City business, will be checked on an annual basis.

An employee who uses a private-owned vehicle while on City business is eligible for expense reimbursement only if they have liability insurance on their vehicle in the amounts required by state law. Evidence of such insurance shall be carried in the glove compartment of the vehicle and the City may, at any time, require proof of such insurance.

201.313 – Credit Card Policy

- (A) Introduction – Minnesota Statutes, Section 471.382, allows cities to make purchases with credit cards. The use of credit cards enables the City to conveniently obtain certain goods and services and reduce petty cash payments and employee reimbursements.
- (B) Purpose – The purpose of this policy is to establish guidelines for the use of credit cards in order to maintain clear accounting controls. It will also provide employees with a flexible and convenient method to purchase materials, supplies, and services for the City when it is deemed efficient to do so.

- (C) Cards – Department heads may be issued a credit card(s) for use within their department(s). Cards are also available for checkout from the Finance Department. The person checking out the card has responsibility for all purchases made with the card while it is in their possession.
- (D) Using a Card – All purchases made with the credit card are subject to supervisor approval. Each purchase must be accompanied by supporting documentation from the vendor.
- (E) Monthly credit card statements, along with supporting documentation, must be submitted to the Finance Department as soon as possible after the statement is received to avoid late payment penalties.
- (F) Prohibited Use – Cards will not be used for meals, cash advances, gambling, alcoholic beverages, or personal expenses. Misuse of a card by an employee will result in disciplinary action.
- (G) Lost or Stolen Card – Lost or stolen cards must be reported immediately to the Finance Department and card issuer. Responsibility for the security of the card rests with the department head.
- (H) Card User Responsibilities – Every card user must take all precaution to ensure the card is kept secure and used only for legitimate City business purposes.

201.314 – Volunteerism

- (A) The following guidelines are established for City employees performing volunteer activities:
 1. Any form of volunteerism that conflicts with an employee's regular work schedule must have prior approval from his/her supervisor or department head.
 2. If an employee should be called for an emergency situation, that employee shall receive prior approval from his/her supervisor or department head to ensure City operations are not interrupted. Upon returning to work, that employee shall notify his/her supervisor immediately.
 3. City vehicles shall not be used for transportation to and/or from the volunteer site.
 4. If the volunteer project or program requires the employee to be called during the employee's regular assigned shift and all other requirements of this policy are met, any time away from work shall be considered unpaid leave or the employee may use accumulated PTO or vacation leave.
 5. Employees performing volunteer work for other organizations will not be covered by the City's worker's compensation, medical liability insurance, or professional liability insurance while performing the volunteer work.

201.315 – Non-Smoking Policy

- (A) The City of Bemidji is committed to providing employees with a safe and healthy work environment. Smoking and second-hand smoke have been found to pose definite health hazards and smoking also significantly reduces the useful life of office furnishings and sensitive equipment. The City of Bemidji observes and supports the Minnesota Clean Indoor Air Act. Therefore, 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 (pipes, cigars and cigarettes) or "vaping" with e-cigarettes is prohibited in City facilities, vehicles and equipment.

201.316 – Anti-Harassment Policy

- (A) Harassment is basically unwelcome behavior, and can be unlawful when directed at a person in a protected class. Harassment on the basis of race, age, disability, sexual orientation, ethnicity, religion, sex or any other legally prohibited characteristic by any City employee is strictly forbidden as mandated by Title VII of the Civil Rights Act of 1964 and by the Minnesota Human Rights Act.

Unlawful harassment often involves a hostile work environment, which is a pattern of offensive comments or behavior that affects a person's ability to perform the job. Harassment can include bullying, rude behavior or disrespect for co-workers, but this type of conduct is only illegal when based on a protected class. However, such behavior is not acceptable and will not be tolerated by employees or on City premises.

Substantiated violations of this policy by an employee will result in disciplinary and corrective action. No employee shall be subject to harassment, reduction in employment status, benefits, pay, or loss of advancement opportunity for filing a complaint or testifying in an investigation or appeal proceeding.

- (B) Definitions - The following definitions shall apply:

1. Harassment – Behavior intended to disturb or upset; behavior that is found to be threatening or disturbing; unwelcome conduct which is intimidating, offensive, abusive or hostile.
2. Sexual Harassment - Sexual harassment is further defined to include unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication when:
 - (a) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations, or public services, education or housing;
 - (b) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education or housing; or
 - (c) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, housing, or creating an intimidating, hostile or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.
3. Reporting Authority - Reporting authority is defined as one who receives a report of alleged harassment. Normally this would be a Department Head, Supervisor, City Manager, Mayor, or City Attorney.
4. Bullying – Repeated harassment or abuse of a psychological nature.

- (C) Procedures - The following informal and formal procedures should be followed in processing allegations of harassment.

1. Informal Procedure - The employee shall make a complaint of the alleged harassment with his or her Supervisor or Department Head. If the alleged perpetrator is an elected official, the Supervisor or Department Head, the employee shall make the complaint of the alleged harassment to the City Manager or Mayor. If the alleged perpetrator is the Mayor, the employee shall make the complaint of the alleged harassment to the City Manager or City Attorney. The reporting authority shall immediately initiate an investigation of the alleged harassment and shall attempt to resolve the matter to the satisfaction of all parties.
2. Formal Procedure
 - (a) Reporting - Any City employee who believes they have been subjected to harassment shall be requested, but is not obligated, to submit a signed, written statement to the reporting authority regarding the alleged harassment. The written complaint should contain a description of the behavior-communication that precipitated the alleged harassment, including the time, place and date of the harassment as well as any witnesses. A copy of a Harassment Report form should be made available to the employee to facilitate the reporting process (see Page 28).
 - (b) Investigation - The reporting authority shall investigate or arrange to have the complaint investigated. If substantiated, the reporting authority or investigative entity shall attempt to mediate a resolution on a timely basis after receipt of the complaint.
 - (c) Interim Action - After receiving the report, the reporting authority may need to take interim action to insure that any harassment is abated. The nature of the action to be taken by the reporting authority may vary from case to case, but it should ensure that any harassment is effectively stopped and that there be no retaliation toward the reporting employee for making the report.
 - (d) Disciplinary Action - If the complaint is substantiated, corrective or disciplinary action may be taken against the perpetrator. This may include:
 - (i) a verbal reprimand;
 - (ii) a written reprimand;
 - (iii) a corrective action plan involving treatment, therapy or education on sexuality;
 - (iv) withholding of salary increase;
 - (v) suspension;
 - (vi) demotion or transfer, reduction in classification and/or salary; or
 - (vii) termination
 - (e) Appeal Process - If this action does not resolve the situation to the party's satisfaction, either party may appeal the decision to the City Council by filing a written complaint with the Council within five business days. The Council should affirm or modify the decision within 30 business days after receipt of the appeal.
 - (f) Further Remedy - Filing a complaint does not preclude an employee from seeking action under the Minnesota Human Rights Act or other laws.

(D) Types of Sexual Harassment - Sexual harassment may be either verbal or physical and range from sexist jokes and comments to sexual assault. The blatant forms of sexual harassment are readily recognized. More subtle sexual harassment, however, can be equally destructive of good employee practices, demoralizing to employee relations and debilitating to employee work performance. Examples of illegal behavior given by the State Human Rights Department include:

1. Unwanted sexual comments, innuendos or suggestions.
2. Suggestive or sexist remarks about a person's clothing, body or sexual activity.
3. Unwanted and unnecessary touching, brushing against, patting, or pinching.
4. Suggestions, request or demand for sexual favors accompanied by implied or overt threats or promises.
5. Display of pictures of objects depicting nude, scantily clad or suggestively posed women or men.
6. Unwelcome and/or repeated suggestions regarding, or invitations to social engagements or other activities.
7. Any indication, expressed or implied, that an employee's job security, job assignment, conditions of employment, or opportunities for advancement depend or may depend on the granting of sexual favors to any other employee, supervisor or manager.
8. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.

(E) Employer Liability - There are several levels of employer liability, depending on circumstances and parties to the harassment.

1. The employer may have liability for action of its elected officials, Department Heads, and Supervisors when these individuals engage in harassment, regardless of whether the acts were authorized or forbidden and regardless of whether the employer knew or should have known of their occurrence.
2. Limited liability occurs with respect to conduct between fellow employees. The employer may be responsible for acts of harassment when the employer knows or should have known and fails to take immediate and appropriate action.
3. In addition, the employer may be held liable where other persons who are not parties to the harassment are denied employment opportunities through favoritism granted elsewhere.
4. The employer may also be responsible for the acts of non-employees, such as clients, sales representatives, or members of the public if the employer knows of the situation and could have alleviated the situation but failed to take immediate action.

(F) Documentation - Supervisory staff are to maintain appropriate and adequate documentation of all actions taken in regards to claims of harassment.

(G) Confidentiality and Data Practices

1. Confidentiality of any complaint will be maintained to the greatest extent possible. Only those persons with a "right to know" the information should have access to it. An absolute promise of confidentiality cannot be assured, however. For example, in some circumstances, the subject of a report of harassment will have access to the name of the reporter and other relevant information made in the report. There may be circumstances, however, that release of this information will not occur, i.e.

in those cases in which the reporting authority determines that the release of this information to the subject of the report would threaten the safety of the reporter or subject the reporter or witness to harassment.

2. Information that may become public includes:
 - (a) The existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in disciplinary action;
 - (b) The final disposition of any disciplinary action together with the specific reasons for the action and the data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; and
 - (c) The terms of any agreement settling any dispute arising out of an employment relationship, except the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money.

CITY OF BEMIDJI HARASSMENT REPORT



ANTI-HARASSMENT POLICY

SECTION 201.316

Harassment is basically unwelcome behavior, and can be unlawful when directed at a person in a protected class. Harassment on the basis of race, age, disability, sexual orientation, ethnicity, religion, sex or any other legally prohibited characteristic by any City employee is strictly forbidden as mandated by Title VII of the Civil Rights Act of 1964 and by the Minnesota Human Rights Act. Harassment can include bullying, rude behavior or disrespect for co-workers. Such behavior is not acceptable and will not be tolerated.

A. Identifying Information

Your Name: _____

Your Title / Position: _____

B. Incident Report ~ Describe the nature of the harassment you experienced: what was said, done, or observed that precipitated the alleged harassment; the date, time, and place the incident took place; and how long this has been going on (if it has occurred on more than one occasion). Please be as specific as possible and attach an additional sheet if necessary.

C. Witnesses ~ Identify any witnesses who were present, have direct knowledge of the incident, or have experienced a similar incident.

Signature

Date

201.401 – Workweek

- (A) The standard workweek shall be forty (40) hours, plus up to one hour per day of uncompensated time for lunch or a meal, with the exception of exempt employees. The City's workweek is declared to be a seven consecutive day period commencing at midnight Saturday and ending at midnight the following Saturday.

201.402 – Working Hours

- (A) Normal working hours are 8:00 a.m. to 5:00 p.m. Supervisors may require/approve employees working on other schedules as dictated by departmental needs and based upon the nature of the assignment. Flexible hours may be established on a departmental basis provided that it does not interfere with staff coverage for the department.
- (B) If an employee is unable to report to work as scheduled, he/she must report the reason as soon as practical to his/her supervisor. Tardiness will be disciplined accordingly.
- (C) In order to comply with health care reform law while avoiding penalties, part-time employees will be scheduled as needed and in manner which ensures positions retain their part-time status as intended. Employees in part-time and temporary positions will not be permitted to work more than 30 hours/week, including hours worked, paid leave (such as annual leave or holiday leave). All shifts, including schedule trades or picked-up shifts, must be pre-approved by supervisor. 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.

201.403 – Unauthorized Absence

- (A) Any unauthorized absence of an employee may result in disciplinary action. An employee who is absent for three (3) consecutive days, without notice to their supervisor, may be considered to have voluntarily resigned. If the supervisor determines that extenuating circumstances existed, the absence may be charged to leave, with or without pay, at the discretion of the department head.

201.404 – Overtime

- (A) The City provides overtime compensation to employees to whom the Federal Fair Labor Standards Act applies. Overtime must be approved by the applicable supervisor and will be taken in the form of compensatory time off unless paid overtime is approved by the same supervisor.

201.405 – Compensatory Time

- (A) The City shall keep records of all accrued compensatory time.
- (B) Overtime to be credited as compensatory time shall be awarded only if the work was approved in advance by the appropriate supervisor or in a situation determined to be an emergency by the supervisor or City Manager.
- (C) Eligibility for compensatory time and other overtime payment requirements will be

governed by the Fair Labor Standards Act, as amended, and applicable regulations. The maximum accumulation of compensatory time shall be 100 hours.

(D) FLSA Non-Exempt Employees

Pursuant to the Fair Labor Standards Act (29 U.S.C.A. § 201-219), Non-exempt Employees are eligible to accrue overtime. Department directors shall determine if overtime is necessary due to workload, staffing levels, or emergency needs. Employees shall not normally work overtime without prior approval of their supervisor. Employees shall be paid one and one-half (1.5) times the employee's regular rate of pay for all *hours worked* over 40 in the workweek or they may elect to accrue compensatory time off at that same rate (1.5 times). *Hours worked* shall include Paid-time-off (PTO), sick leave, compensatory time and holiday hours declared by the employee in that workweek.

For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded or paid twice for the same hours worked. Overtime will be calculated to the nearest one-quarter (1/4) hour.

Eligible employees shall note on their time sheets if they elect to receive overtime compensation or compensatory time. At the time of separation from employment with the City of Bemidji, any remaining compensatory time shall be cashed out at the rate of the employee's existing hourly wage.

(E) FLSA-Exempt Employees

Exempt employees (supervisors and professional employees) are ineligible to accrue compensatory time or overtime. Exempt employees are ordinarily expected to be present at the work site during regular operating hours for their respective department.

201.406 – On-Call Time

- (A) Hourly employees will be compensated for on-call time in accordance with the applicable collective bargaining agreement.

201.407 – Time Records

- (A) Employees will keep an accurate record of hours worked on the standard City timesheet and submit such record to their supervisor. Supervisors are responsible for verifying the accuracy of the time records submitted.

201.408 – Outside Employment

- (A) An employee may engage in employment outside of City employment as long as employment does not constitute a conflict of interest with their City employment, the employee's efficiency while working for the City is maintained, and the hours of the employee's other employment do not interfere with the hours required of the employee by the City. No work relating to the employee's other employment may be performed during their City work hours without supervisor approval.

201.409 – Paid Time Off

- (A) It is the policy of the City of Bemidji to provide employees necessary time away from work. This policy is implemented by means of the Paid Time Off (PTO) Policy, which covers all paid leave previously available under the City’s vacation, sick leave, and medical appointment leave policies.
- (B) PTO can be utilized for any purpose, subject only to necessary request/approval procedures consistent with policy and labor contracts.
- (C) Accrual Rates - PTO will accrue at the following rates:

| Years of Service | Approximate Accrual Rate (hours/year) * | Accrual Rate (hours/paycheck) |
|-------------------------|--|--------------------------------------|
| 0-1 | 160 | 6.15 |
| 2 - 4 | 176 | 6.77 |
| 5 | 208 | 8.00 |
| 6 - 10 | 216 | 8.31 |
| 11 - 14 | 232 | 8.92 |
| 15 | 248 | 9.54 |
| 16 & over | 264 | 10.15 |

* Accrual rate in hours/year approximate due to rounding error

(D) Use of PTO

- PTO is accrued on a per check basis and may be used subsequent to the month in which it was earned.
- Non-scheduled use must be requested prior to the beginning of a shift or per departmental practices. Non-scheduled PTO requests may be denied depending on staffing needs.
- Probationary employees may use PTO as it is earned.
- Maximum PTO accrual is 100 days / 800 hours.
 - Any hours over 800 after year end will be capped and removed from the employee’s balance.
 - The 800 hour cap will be applied on the 1st paycheck in January, which includes December 31st in the pay period and any amounts accrued for that pay period.
 - Example: First pay date in January -

| | |
|----------------------------|---------------|
| Beginning PTO Balance | 810.00 |
| Accrual for pay period | +10.15 |
| PTO used | - 16.00 |
| New Balance | 804.15 |
| Hours lost | - 4.15 |
| Capped Balance on pay stub | 800.00 |

- PTO must be used in increments of 15 minutes (1/4 hour).
- Employees receiving Worker’s Compensation, short-term disability, or long-term disability may use accrued PTO hours to return to 100% of their net salary.
- Previously accrued extended sick leave hours must be used prior to beginning an unpaid leave of absence for medical reasons.
- An employee taking an unpaid leave of absence for other than medical reasons must use all accrued PTO hours before beginning the unpaid leave.

(E) Conversion Option

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

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

An employee may request the conversion option a maximum of 3 times a year during the months of April, July and December. Notification must be in writing and turned into Payroll two weeks prior to the start date of the pay period in which payment is to be received. (Note: the Conversion Option will be included in the regular payroll check and taxes will be deducted from the money requested).

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

(F) Eligibility

All regular full-time City of Bemidji employees who are eligible for benefits are eligible to participate in the PTO program. Part-time employees working 30 or more hours per week on an annual basis shall accrue PTO on a pro-rata basis.

(G) Extended Sick Leave Bank

These hours may be used for future illness, injury or disability of the employee, the employee’s spouse, child, ward, parent or siblings. In the event of each illness, injury or disability, time off may be taken from the Extended Sick Leave Bank or the PTO account, at the employee’s discretion.

Sick leave may be used as follows:

- When an employee is unable to perform work duties due to illness or disability (including pregnancy).
- For medical, dental or other care provider appointments.

- 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.
- 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.
- To take children or other family members to a medical, dental or other care provider appointment.
- To care for an ill family member. Pursuant to the Women's Economic Security Act (WESA) and Minn. Stat. §181.9413, eligible employees may use up to 160 hours of sick leave in any 12-month period for absences due to an illness of or injury to the employee's child, adult child, spouse, sibling, parent, grandparent, stepparent, parent-in-laws and grandchildren ("child" includes biological, step, foster or adopted).
- Safety Leave – employees are authorized to use sick leave for reasonable absences for themselves or relatives (employee's child, spouse, sibling, parent, grandparent, stepparent, parent-in-laws and grandchildren as identified above) 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(ren), is limited to 160 hours in any 12-month period.

To be eligible for Extended Sick Leave pay, the employee will:

- Communicate with his/her immediate supervisor, as soon as possible after the scheduled start of the workday, for each and every day absent;
- Keep his/her supervisor informed of the status of the illness/injury or the condition of the ill family member;
- 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 clearly stated on the return-to-work documentation. Employees who have been asked to provide such documentation may not be allowed to return to work until they comply with this provision. Use of the Extended Sick Leave Bank may be denied for any employee required to provide a doctor's statement until such statement is provided.

Any employee who makes a false claim for use of Extended Sick Leave will be subject to disciplinary action.

Employees receiving Worker's Compensation may use the Extended Sick Leave Bank to return to 100% of their current net salary based upon their average net pay for the past six (6) months.

Upon termination any remaining balance in the Extended Sick Leave Bank will be paid out at 50% of the remaining hours.

(H) Termination Benefits

Upon termination of employment with the City of Bemidji, PTO will be paid at the employee's hourly wage rate x 100% of their balance.

Severance benefits will be paid to employees with Extended Sick Leave Banks in accordance with provisions in the appropriate bargaining agreements or Personnel Policies.

Termination pay cannot be used to extend the employee's date of termination beyond the last scheduled workday unless approved by the City Manager.

201.410 – Holidays

- (A) Each employee shall receive a total of 80 holiday hours per year. Non-Union employees shall observe the following paid holidays:

| | |
|-----------------------------|--------------------------------------|
| New Year's Day | January 1 st |
| Martin Luther King, Jr. Day | 3 rd Monday in January |
| President's Day | 3 rd Monday in February |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 th |
| Labor Day | 1 st Monday in September |
| Veteran's Day | November 11 th |
| Thanksgiving Day | 4 th Thursday in November |
| Day after Thanksgiving | Friday after Thanksgiving |
| Christmas Day | December 25 th |

- (B) Whenever a holiday falls on Saturday, the preceding Friday shall be observed as the holiday. When it falls on a Sunday, the following Monday shall be observed. When a holiday falls within a period of paid leave (i.e. vacation, sick leave, etc.) the employee shall be paid at their normal rate of pay for the holiday and the holiday shall not be subtracted from the accrued leave.
- (C) If a permanent, full-time FLSA non-exempt employee is required to work on a holiday, the employee shall receive 1½ times their regular rate for all hours worked on the holiday. They will also be entitled to 8 hours of holiday pay for that day or an alternate day off.
- (D) Permanent, full-time employees will receive eight (8) hours pay for a holiday. Permanent, part-time employees will receive prorated holiday pay based upon their normally scheduled hours.
- (E) In addition to the above holidays, one additional day off per year, with pay, shall be granted to each individual employee by mutual agreement between the Supervisor and the Employee. Such day off with pay shall be considered a **“floating holiday”**. Floating holidays cannot be accumulated from one year to the next. If a floating holiday has not been taken by December 31st of any given year, the holiday is forfeited.

201.411 – Emergency Closings

- (A) Weather Related - City offices will not be officially closed due to weather conditions. Employees who are not able to come to work, due to poor weather conditions, must use paid time off, time without pay, sick leave, or compensatory time for the time absent. It is a condition of employment with the City that all employees are available to report to work under extreme weather conditions or in the event of an emergency response.
- (B) Emergency-Related (Toxic Spill, Hostage Situation, etc.) - When a short-term (less than 8 hours) emergency exists, the City Manager or a designee may choose to close one or

all City offices. Unless determined otherwise by the City Manager, employees will not have to use vacation, time without pay, sick leave, or compensatory time for the time the offices are closed.

- (C) Closing Protocol During Regular Office Hours - When an emergency has been declared during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.), the City Manager or a designees should notify all the building sites affected by the emergency in a timely manner. It will be the responsibility of the designated person in each building site to notify its employees.
- (D) Closing Protocol During Non-Office Hours - When an emergency has been declared during other than normal business hours (after 5:00 p.m. on normal business days or between 5:01 p.m. Friday through 7:59 a.m. Monday), the City Manager or a designee should provide notification to the area radio stations of such determination. This notice should be in as timely a manner as possible.

201.412 – Reasonable Accommodations for Health Conditions Relating to Pregnancy

Pursuant to the Women’s Economic Security Act of 2014 (WESA) and Minnesota Statute 181.9414, the city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth:

- More frequent restroom, food, and water breaks;
- Seating;
- Limits on lifting over 20 pounds; and/or
- Temporary transfer to a less strenuous or hazardous position, should one be available.

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

201.413 – Family and Medical Leave Act (FMLA) of 1993

It is the policy of the City to provide family and medical leave in accordance with the federal Family and Medical Leave Act (FMLA) and State law. If leave qualifies as FMLA leave under both state and federal laws, entitlement will be used under each law at the same time, to the extent permitted by law.

- (A) The federal Family and Medical Leave Act provides that an eligible employee may take a total of 12 workweeks of leave during any 12-month period for one or more of the following:
 - a. Birth of a son or daughter of the employee and in order to care for such son or daughter.
 - b. Placement of a son or daughter with the employee for adoption or foster care.
 - c. To care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
 - d. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
 - e. For a qualifying exigency (see Section 201.414 – Types of Employee Leave).
- (B) Employees are eligible for this leave if they have been employed for at least 12 months by the City and have worked at least 1,250 hours during the previous 12-month period.

Employee must use accrued PTO/Vacation/Sick leave concurrent with the FMLA Leave. After the accrued PTO/Vacation/Sick leave is exhausted, the remaining FMLA leave will be unpaid. No PTO/Vacation/Sick leave shall accrue during the unpaid portion of the family leave. The City of Bemidji will continue health benefits during this period under the same conditions applicable to active employees. Upon return, the employee shall be returned to his/her former position or equivalent position with equivalent employee benefits, pay, and other terms and conditions of employment.

- (C) A thirty-day advanced notice is required for planned health events, such as births or medical treatment. Other cases require as much advance notice as practical. Employees requesting leave are required to complete and submit a *"Family & Medical Leave Act (FMLA) ~ Leave Request"* form to the City Manager's office.
- (D) Employees who are not eligible for FMLA leave have no continuation of benefits outside of COBRA and/or Minnesota Continuation Law. This policy establishes a uniform policy for non-FMLA medical leaves of absence granted by the City Manager.
- (E) City Subsidy – For employees who are granted non-FMLA leave by the City Manager, the City will pay half of the insurance premiums that were previously paid by the City. The employee portion shall be paid monthly, in advance. This subsidy shall continue for the duration of the leave granted.

201.414 – Types of Employee Leave

(A) Bone Marrow Donation

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, to undergo medical procedures to donate bone marrow, in accordance with Minnesota Statutes 181.945.

(B) Elections / Voting Leave

Every employee who is eligible to vote in an election has the right to be absent from work for the purpose of voting during the morning of the date of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee (Minnesota Statutes 204C.04, Subd. 1).

Pursuant to Minnesota law, an employee selected to serve as an election judge will be allowed time off without pay for purposes of serving as an election judge, provided the employee gives the City at least ten (10) days written notice.

(C) Bereavement Leave

Every full-time, permanent employee is eligible to receive a bereavement leave with pay of twenty-four (24) working hours in the case of the death of the employee's spouse, parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law and adopted, half and step members. A person identified in an employee's personnel file as "in a similar role" shall also be included.

Permanent, part-time employees will receive prorated bereavement leave based upon their normally scheduled hours.

Bereavement leave shall not be chargeable to any accrued leave account. Bereavement leave will be treated as an approved holiday for pay purposes.

(D) Jury or Court Leave

Permanent, full-time and part-time employees shall be granted time off with pay when performing jury duty, when subpoenaed as a witness before any court of law in a case involving the City, or when appearing before any court of law as a defendant in a civil action arising from the employee's job with the City. Any money, except for travel expense, granted to an employee serving on jury duty shall be remitted to the City. An employee released from jury duty before the end of their normal workday shall return to work. Temporary employees will be given time off for jury or court duty without pay.

(E) 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 Extended Sick Leave Bank Section 201.409 (G) for additional information on leave benefits available to employees and certain family members.]

(F) Unpaid Leaves of Absence

Leaves without pay of five (5) days or less may be granted by the department head.

Leave without pay of greater than five (5) days may be granted to an employee with the written approval of their department head and action by the City Manager. A written request shall be made by the employee to their supervisor for leave without pay. The City Manager may extend such leaves up to a maximum of one (1) year, if circumstances warrant such action.

No vacation, PTO, holiday, or sick leave shall apply or be accrued during a leave without pay, nor shall any sick leave be granted to employees on unpaid leave.

Education/sabbatical leaves are considered unpaid leaves.

The City may temporarily fill a position during an employee's period of leave without pay.

Fringe benefits shall not accrue during a period of leave without pay, nor will the City make any contributions during such a period to retirement or group insurance programs. However, qualified employees may participate in the group insurance programs during such periods, provided the employee deposits, in advance with the City, the amounts necessary to cover the total cost of the premiums for each month of the leave period.

(G) Military Leave & Military Family Leave Entitlements

Federal and State laws provide protection and benefits to employees who are called to military service, whether in the reserves or on active duty {The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and provisions of Minnesota Statutes Sections 192.26 and 192.261}. As such, full-time permanent employees are entitled to leave from employment to participate in military duty and shall

be given up to fifteen (15) days of paid military service leave in a calendar year. If the employee is required to continue military service beyond fifteen (15) days, the continued leave shall be unpaid unless the employee elects to use accrued vacation or PTO hours for the leave. Employees are entitled up to five (5) cumulative years of active duty service.

Under FMLA, eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

(H) Emergency Services Volunteer

For the purpose of this policy, emergency services include fire departments, ambulance services, first responder services, Red Cross, and the Salvation Army.

City employees who respond, as volunteers, to provide emergency services during regular working hours will not be penalized for their response provided they have previous permission from their department head or supervisor. The employee is allowed to respond to an emergency call and is expected to return to work when the emergency is over. The employee will be paid by the City for their normal work hours. No overtime will be authorized. Any additional volunteer work must be done after regular working hours or approved as vacation time. Department heads and/or supervisors may impose additional restrictions.

Department heads may limit participation if City needs dictate an employee's presence, responses have been too frequent or time consuming, or employees have abused their response privilege. Abuse may also result in disciplinary action.

(I) Parental Leaves

1. Pregnancy and Parenting Leave –

Pursuant to the Women's Economic Security Act (WESA) employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence under the Pregnancy and Parenting Leave Act of Minnesota. Female employees for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions as well as a biological or adoptive parent in conjunction with after the birth or adoption of a child as eligible for up to 12 weeks of unpaid leave and must begin within twelve (12) months of the birth or adoption of the child. In the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital. Employee should provide reasonable notice, when possible. 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, PTO 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. {See Section 201.413 regarding Family & Medical Leave Act (FMLA)}

2. School Conference and Activities Leave –Pursuant to Minnesota law, any employee who has worked an average number of hours equal to at least half the full-time equivalent may take unpaid leave for up to a total of sixteen (16) hours during any 12-month period to attend school conferences or classroom activities related to the employee's child (under 18 or under 20 and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours. When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to 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.
3. Sick or Injured Child Care Leave – Minnesota Statute 181.9413 grants employees the right to use sick leave for absences due to illness or injury of the employee's child to the extent that the employee's presence with the child is necessary. The leave must be granted on the same terms the employee is able to use sick leave benefits for his or her own illness or injury.
4. Adoptive Parents – In addition to the Family & Medical Leave Act and the Minnesota Parental Leave Law, Minnesota Statute 181.92 provides that adoptive parents be given the same time off as biological parents. When the leave begins is up to the adoptive parent but must begin before or at the time of the child's placement in the adoptive home. The leave must be for the purpose of arranging the child's placement or caring for the child after placement.
5. Nursing Mothers – Minnesota Statute 181.939 and the Women's Economic Security Act (WESA) provide reasonable unpaid break time for nursing mothers to express milk for nursing her child for one year after the child's birth. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

(J) Suspension of Paid Leave

The City reserves the right to postpone all leaves for an employee, or recall an employee from paid leave, in the event of an emergency, except during a period of authorized sick leave.

201.415 – Donation of Leave

- (A) Purpose – The City believes that reasonable measures should be taken to provide an opportunity for employees who wish to do so, to be able to donate accrued leave to other employees who have exhausted, or are expected to exhaust, their leave.
- (B) Effect on Accrued Balances – The City will subtract the hours (not the dollar value) of donated leave from the accrued balances of the employee making the donation and credit those hours to the requesting employee. Once a donation is made, it is irrevocable.
- (C) Employees may request donated leave by submitting a Request for Donated Leave form (see page 41) to the City Manager.
- (D) Employees may donate accrued leave to any other employee by submitting a written Donated Leave Authorization Form (see page 42) to the City Finance Office.



CITY OF BEMIDJI REQUEST FOR DONATED LEAVE

Name: _____ Date: _____

Pursuant to **Section 201.415** of the Personnel Policies, I would like to request donated leave from my co-workers because:

I have exhausted my accrued Paid Time Off (PTO), vacation, sick leave, and/or compensatory time.

OR

I expect to exhaust my accrued Paid Time Off (PTO), vacation, sick leave, and/or compensatory time by _____.
(indicate date)

Describe your situation as to why you have or why you are expecting to exhaust your leave time:

Employee Signature: _____

PLEASE SUBMIT THIS COMPLETED FORM TO THE CITY MANAGER

FOR OFFICE USE ONLY:

Employee's current balance: _____ PTO _____ Vacation _____ Sick Leave _____ Comp Time

City Manager approval of request: _____ Date: _____



CITY OF BEMIDJI DONATED LEAVE AUTHORIZATION FORM

Donor's Name: _____ Date: _____

Pursuant to **Section 201.415** of the Personnel Policies, I hereby request the following accrued Paid Time Off (PTO), vacation, sick leave, or compensatory time hours be transferred from my account to _____,

who has exhausted, or is expected to exhaust, his/her leave:

| TYPE OF LEAVE | Number of hours I wish to donate |
|----------------------------|----------------------------------|
| Paid-Time-Off (PTO) | |
| Vacation | |
| Sick Leave | |
| Compensatory Time | |
| TOTAL HOURS DONATED | |

I want this transaction to be effective on _____.
(indicate effective date)

I wish I do not wish ... to have my donation communicated to the recipient.

I acknowledge the hours (not the dollar value) of the donated leave will be subtracted from my accrued balance and credited to the above-named employee. I understand my donated PTO, vacation or compensatory hours will be donated at 100% and sick leave will be donated at 50% (½ time). I further understand once the donation is made, it is irrevocable.

This authorization is valid only for the above-mentioned employee and this is a one-time donation. Any further transactions must be authorized separately.

Donor's Signature: _____
(Your name will not be released unless requested above)

PLEASE SUBMIT THIS COMPLETED FORM TO THE FINANCE OFFICE

FOR OFFICE USE ONLY:

Employee's current balance: _____ PTO _____ Vacation _____ Sick Leave _____ Comp Time

Hours verified by Finance Office: _____ Date: _____

201.501 – General

- (A) Disciplinary actions will be made for just cause only and may take the form of a verbal reprimand, written reprimand, suspension, or dismissal. The employee's supervisor will assume the responsibility for administering reprimands or suspensions as appropriate. Disciplinary actions need not be imposed in any particular order; however, dismissals must be approved by the City Manager.

201.502 – Types of Discipline

- (A) Verbal Reprimand – A supervisor may verbally reprimand an employee relative to the improper performance of their job tasks or actions which may be in opposition to a generally accepted set of policies. Actions required to correct the deficiencies or misconduct noted must be conveyed to the employee. Verbal reprimands shall be noted in the employee's personnel file.
- (B) Written Reprimand – A written reprimand shall be prepared by the employee's supervisor and submitted to the employee with a copy to the employee's personnel file. The written reprimand shall be signed and acknowledged by both the supervisor and the employee indicating a conference was held addressing the reprimand. It shall state that the employee is being warned for misconduct, describe past actions taken by the supervisor to correct the problem, urge prompt correction or improvement by the employee, include timetables and goals for improvement when appropriate, and outline future penalties should the problem continue.
- (C) Suspension – Supervisors, with the approval of the City Manager, may suspend an employee, with or without pay, for a period of up to three (3) weeks, depending on the seriousness of the problem. The circumstances resulting in suspension shall be explained in a written communication to the employee and the City Manager and a copy of the written communication placed in the employee's personnel file. Neither compensatory time, paid-time-off (PTO), nor vacation leave shall be used in lieu of an unpaid suspension.
- (D) Demotion and/or Transfer – An employee may be demoted or transferred if attempts at resolving a problem have failed and the City Manager determines this would be the best solution. The employee must be qualified for the new position.
- (E) Dismissal – An employee may be dismissed by written notice only from the City Manager.

201.503 – Grievances / General

- (A) It is the desire of the City to adjust grievances informally. Both supervisors and employees are expected to make every effort to resolve problems as they arise. It is also recognized that there may be grievances which will be resolved only after a formal grievance and review process.

201.504 – Grievances / Appeal Procedures

- (A) If an informal resolution to a grievance is not reached, the following steps shall be taken, in the order listed, until resolution is achieved:
- (1) An employee shall have seven (7) calendar days after they should have been

reasonably aware of an incident or occurrence, upon which a grievance is based, to present a grievance to their supervisor. Their supervisor shall make inquiry into the facts and circumstances of the grievance as soon as possible. The supervisor shall attempt to resolve the grievance promptly and fairly and notify the employee of his/her grievance decision, in writing, within seven (7) calendar days.

(2) If the employee is dissatisfied with the supervisor's decision, the employee shall submit a written request for review to the City Manager within seven (7) calendar days of their supervisor's decision. The City Manager shall make such investigation as deemed necessary and shall, within fourteen (14) calendar days after the receipt of the employee's request for review, inform the employee in writing of his/her decision.

(3) Right of Appeal – All non-union employees have the right to appeal disciplinary action, including suspension, dismissal or demotion, through the Merit Hearing Board as established in the City Code. Requests for appeal through the Merit Hearing Board shall be directed to the City Manager and must be received within 30 days of the disciplinary action.

(B) Any of the foregoing time limits may be extended by mutual written consent of the employee, the supervisor, and the City Manager.

201.505 – Offenses

(A) Specific reasons for discipline and dismissal are too numerous to list comprehensively. Lack of a specific listing of the reason shall not limit the City from taking action deemed appropriate for the offense.

- a. Incompetency
- b. Misconduct
- c. Gross neglect of duty
- d. Immoral or indecent conduct while on duty
- e. Excessive use of force
- f. Intentional falsification of personnel records, time reports, or other City records or reports
- g. Conviction of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, while an employee of the City
- h. Theft or intentional destruction of City property or another employee's property
- i. Sleeping on the job during paid work hours including sleeping or having the appearance of sleeping in public view, or in a City vehicle, while on a paid or unpaid break
- j. Intoxication or being under the influence of illegal drugs, or narcotics while on duty
- k. Intentional or careless conduct endangering the safety of other employees, including the provoking or instigating of a fight during work-time or on City premises
- l. Insubordination, which is the refusal to comply with the supervisor's instructions unless such instruction are injurious to the employee's safety or health
- m. Abusive, threatening or coercive treatment of another employee or the public
- n. Offensive conduct or use of offensive language towards the public or in public, or towards City officials, supervisors or other employees
- o. Accepting any fee, gift or other valuables in the course of or in connection with work, when such gift or other valuables are accepted for personal use
- p. Soliciting political contribution from municipal employees and engaging in political activities while working or on City premises

- q. Unauthorized use of City-owned tools, equipment, or vehicles
- r. Violation of a safety rule or safety practice
- s. Failure to report to work without giving the earliest reasonable notice to supervisor or department head
- t. Absenteeism and/or tardiness
- u. Off-duty conduct that is potentially damaging to the reputation of the City
- v. Carelessness or negligence with City money or property
- w. Smoking in unauthorized areas
- x. Treating other employees in an unprofessional or disrespectful manner including making hurtful, disparaging or cutting remarks

201.601 – Fringe Benefits

- (A) Subject to annual policy and budgetary action by the City Council, such benefits as the Council may deem appropriate may be offered to employees. Fringe benefits may be increased, decreased, or eliminated at any time by action of the Council, and such action may apply to all current and future employees. All benefits commence, or begin to accrue, on the first day of employment unless otherwise stipulated.
- (B) The Fringe Benefit Contribution (FBC) is paid only with the first and second paychecks in any given month. The first such payment will start with the first paycheck from which health insurance premiums are withheld. The first FBC on the first paycheck of the month is for the first half of that month. The second FBC on the second paycheck of the month is for the second half of that month.

Any employee leaving employment will get a pro-rated FBC for the last month of employment based on the number of days worked versus the number of working days in their final month of employment, regardless of whether or not the employee continues health insurance through the final month of employment.

201.602 – Health / Medical Insurance

- (A) The Plan – It is the policy of the City to maintain an insurance benefit plan (the “Plan”) for employees which may include, but is not limited to, the following group coverage: health / medical; life; dental; disability insurance; and other group insurances that may become available through action of the Council.
- (B) Qualified Employees – Employees scheduled to work 30 hours per week, or more, are qualified employees. The City will pay on a pro-rated basis for employees scheduled to work a minimum of 30 hours per week, but less than 40 hours per week. The Plan shall not be available to employees appointed to temporary, emergency, seasonal, or intermittent positions.

In accordance with the 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 ensure positions retain part-time status as intended.

- (C) Waiver of Coverage – Single health insurance coverage is mandatory for all employees working a minimum of 30 hours per week. Employees may not be excluded from coverage, even if the employee is covered through a similar employment benefit of a spouse or significant other.
- (D) Start Date – New Employees are required to obtain and return application forms related to insurance benefits within five working days from the first day of employment. Enrollment in the selected insurance plan shall begin on the first day of the month following the employee’s first day of work. If the employee’s start date is on the 1st of the month, their insurance is effective immediately.

- (E) Continuation of Coverage – Coverage under the Plan terminates with the termination of employment or the last day of the month for which the premium is paid. However, coverage may be continued, at the employee's expense, under Minnesota Statute 471.61, Subd. 2b, "Group Benefits for Officers, Employees, and Retirees," which states:

"A unit of local government must allow a former employee and the employee's dependents to continue to participate indefinitely in the employer-sponsored hospital, medical, and dental insurance group that the employee participated in immediately before retirement," ... under certain conditions.

Terminating employees are required to notify the Finance Office of their intent to continue coverage.

- (F) The City's COBRA (Consolidated Omnibus Budget Reconciliation Act) Administrator will handle continuation benefits when a qualifying event occurs. Employees, their spouse and covered dependents will have the opportunity to continue group health benefits for a period of up to 18 months (certain event COBRA may be extended to 36 months) under the provisions of the Federal COBRA when group health benefits would otherwise end.

Qualifying events may include:

- Voluntary or Involuntary termination of the covered employee's employment other than by reason of gross misconduct;
- Reduction of hours of the covered employee's employment;
- Change in marital status;
- Death of the covered employee;
- A dependent child ceases to be a dependent under the generally applicable requirements of the plan;
- A covered employee becomes entitled to benefits under Medicare

In the event of divorce or a child's loss of dependent status, the employee or a family member must notify the plan administrator within 60 days of the occurrence of the event.

- (G) Renewal of VEBA with Health Reimbursement Arrangement For Active Employees (NOTE: This policy section, or any portion thereof, is superseded when addressed in a separate Labor Agreement)

Section 1. VEBA: Effective January 1, 2013, City shall make available a VEBA Plan and Trust described in summary and attached hereto as VEBA Attachment #1 to all qualified bargaining unit members and eligible retirees who exercise their option to enroll in the high deductible health insurance program described in summary and attached hereto as Insurance Attachment #1.

If the Employer maintains a cafeteria plan with a health flexible spending account (an "FSA"), eligible health expenses will be paid from the FSA first, until an individual's FSA account is exhausted and from the VEBA Plan second. The VEBA Plan year will begin and end on the same dates as the high deductible health insurance program.

Section 2. Benefits provided through the VEBA: Employer shall provide the Health Reimbursement Arrangement for Active Employees as described in the VEBA Plan and Trust.

Section 3. Administration and Investment Fees and Expenses. Administration fees under the Premium Saver Option shall be paid by the Employer. The participant directs

the investment of his or her account in mutual funds made available through SelectAccount. Investment Fees are paid from the accounts of participants who choose to invest.

When an individual is no longer entitled to contributions under the VEBA (for example, if they enroll in other health coverage) or if they terminate employment, administration and investment fees shall be paid from individual's account in the VEBA. Administration and investment fees are subject to change as employer negotiates new administration arrangements.

All participants in the VEBA shall be enrolled in the Crossover Program, in which claims paid by employees for uninsured medical expenses are automatically reimbursed from the VEBA if the employee has funds available in their account. Participants in the VEBA who do not wish amounts to be automatically debited from their VEBA accounts may opt out of the Crossover Program.

Section 4. Employer Contributions to the Health Reimbursement Arrangement for Active Employees:

Subd. 1. Contributions to the Active Employees' Plan: Employer will make monthly contributions to individual accounts under the health reimbursement arrangement (VEBA and/or HSA) for qualifying non-union members in accordance with the following schedule:

\$100 for each qualified employee who elects single coverage under the group health plan described in Subdivision 2; and

\$100 for each qualified employee who elects family coverage under the group health plan described in Subdivision 2.

Contribution amounts for any union bargaining unit will be determined by Labor Agreement (union contract).

All contributions on behalf of a VEBA Plan participant shall cease on the date the participant is no longer covered under the high deductible health plan in subdivision 2 below. If participant dies without a spouse or legal dependent for federal tax purposes, and to the extent required to protect the tax status of the health reimbursement arrangement, amounts remaining in the participant's account shall be forfeited and applied to reduce administrative expenses or future Employer contributions to the Plan.

Subd. 2 High Deductible Health Plan: Employer shall make available a high deductible health plan described in summary and attached hereto as Insurance Attachment #1 to all qualified bargaining unit members who elect to participate in said plan.

The parties understand that the high deductible health plan described in summary and attached hereto as Insurance Attachment #1 provides that deductibles and out-of-pocket maximums may be increased each year to keep pace with inflation.

VEBA Attachment #1

The VEBA Plan and Trust is intended to constitute a Voluntary Employees' Beneficiary Association under Section 501(c)(9) of the Internal Revenue Code. It is comprised of two documents, as follows:

- 1) The Minnesota Service Cooperatives Employee Benefits Trust Agreement, originally effective June 30, 2002 and as restated effective November 1, 2007, by and among Minnesota Service Cooperative VEBA Committee and MG Trust Company, Trustee. The Trustee may be replaced from time to time in accordance with laws and best practices for competitive bidding of governmental contracts.
- 2) The Minnesota Service Cooperative VEBA Plan. The Plan is administered by MII Life, Incorporated, dba SelectAccount. The administrator may be replaced from time to time in accordance with laws and best practices for competitive bidding of governmental contracts.

Insurance Attachment #1

High Deductible Plans Available:

VEBA 100 PLANS

| Deductible | Calendar Year Plan Number | Plan Year Plan Number |
|--------------------------------------|---------------------------|------------------------------|
| \$5000 single ded/\$10K family ded | X 850 | <input type="checkbox"/> 835 |
| \$3125 single ded/ \$6250 family ded | X 860 | <input type="checkbox"/> 836 |
| \$2600 single ded/ \$5200 family ded | X 833 | <input type="checkbox"/> 837 |

201.603 – Health Care Savings Arrangements for Active Employees

(A) Introduction

- (1) The City of Bemidji (“Employer”) has adopted Health Reimbursement Arrangements for Active Employees. The employer will also make available a major medical health plan with high deductible options. For those electing one of these plans, the Employer will contribute a fixed amount to a Voluntary Employees’ Beneficiary Association (VEBA) and/or Health Savings Account (HSA) established in the employee’s name.
- (2) These Health Reimbursement Arrangements for Active Employees and various health plan choices are made available through the Northwest Minnesota Service Cooperative. The VEBA option is governed under Section 501(c)(9) of the Internal Revenue Code and the HSA is governed by Section 223 of the Internal Revenue Code. A detailed description of these arrangements are available upon request.

(B) Eligibility – All non-union employees, and others as provided for in their collective bargaining agreements, are eligible to receive employer contributions to their individual accounts.

(C) Employer Contributions

If an employee is eligible to participate, the City will make a monthly contribution in the amount of \$100.00 to the individual account(s) of the employee’s choice (VEBA, HSA or both), unless otherwise agreed upon through a collective bargaining agreement.

(D) Employee Contributions

If an employee is eligible to participate, they may elect to contribute additional funds to their HSA as permitted by the Internal Revenue Code.

(E) Administrative Fee – Administrative fees allocable to individual accounts of active employees shall be paid by the City. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the Health Reimbursement Plans are terminated.

(F) Impact on Other Arrangements –

This policy supersedes and revokes all previous policies on this matter, including, to the extent applicable, other written or oral statements of policy and procedure that address other welfare benefits. The policies and procedures outlined herein are not intended to create any contractual rights or duties, and will be applied at the City’s discretion. Although contributions made to employee accounts in the Health Reimbursement Arrangement for Active Employees are irrevocable, the City may amend or terminate its contributions policy at any time.

(G) Health Savings Account (HSA)

- (1) The City (the “Employer”) has adopted this policy to communicate the availability of a Health Savings Account (HSA) arrangement for eligible employees. The policies and procedures outlined below do not create and are not intended to create any contractual rights or duties, and will be applied at the Employer’s discretion. The

Employer may amend or terminate this policy or any described benefit program at any time.

(2) Eligibility

- a. Employees may be eligible to establish and contribute to an HSA under this arrangement if they meet the following requirements:
 - i. Must be eligible for and enrolled in a high deductible health plan (HDHP) established by the Employer and described in Section 223 of the Internal Revenue Code (Code).
 - ii. May not be enrolled in or covered by any health plan that is not a high deductible health plan (“Disqualifying Coverage”). For this purpose, Disqualifying Coverage includes coverage under (1) a general health flexible spending arrangement (a “health FSA”) that is part of a cafeteria plan under Section 125 of the Code and that is made available through the Employer or through the employer of a spouse or dependent, (2) coverage under a group health plan that is not an HDHP, including coverage made available through the Employer or through the employer of a spouse or dependent, (3) coverage under a health reimbursement arrangement (an “HRA”), including coverage through the Minnesota Service Cooperative VEBA Plan (the “VEBA”), whether offered through the Employer or through the employer of a spouse or dependent, and coverage under Medicare, Medicaid, TRICARE, or any other health plan that is not a HDHP.
 - iii. Cannot be claimed as a dependent by another taxpayer (other than your spouse) on his or her individual income tax return.
- b. The Employer may facilitate participation in an HSA arrangement, and it may make or allow contributions to the HSA through its Section 125 cafeteria plan, but the Employer is not responsible for determining whether the employee is eligible to establish or contribute to an HSA. Once an HSA is established it belongs to the employee, the employee has sole control and is exclusively responsible for the HSA.
- c. Individual situations vary, and the tax rules governing HSAs can sometimes be complex. Refer to IRS Publication 969, “Health Savings Accounts and Other Tax Favored Health Plans,” for information about special rules that affect contributions to an HSA. A copy of this publication may be downloaded at www.irs.gov. The publication is also available by calling 1-800-829-3676. The Employer is unable to respond to individual tax questions, and employees should consult a tax professional if necessary.

(3) HSA Contributions

- a. The Employer shall designate a custodian to receive contributions to HSAs, as defined in Section 223 of the Code. Eligible employees who enroll in the HDHP, and who are otherwise eligible to contribute to an HSA, may contribute and receive employer contributions to an HSA through the Employer’s cafeteria plan under Section 125 of the Code. The Employer is only required to make or forward contributions to the HSA custodian it designates.
- b. The decision to establish an HSA with the custodian selected by the Employer is completely voluntary.
- c. All contributions to an individual’s HSA shall cease on the date he or she becomes ineligible to receive contributions to an HSA for any reason. The Employer is not responsible for monitoring when and whether an employee becomes ineligible for this purpose.

(4) Coordination with other Coverage

- a. General Rule – No contributions will be made to HSAs of employees who have other coverage through the Employer that is Disqualifying Coverage.
- b. Coordination with VEBA – If an employee is a current or former participant in the VEBA plan, and if he or she wishes to enroll in the HDHP and make or receive contributions to an HSA, then prior to the beginning of the VEBA plan year, the individual shall elect a coverage option under the VEBA that limits payment or reimbursement from the VEBA to vision care, dental care, preventative care {as defined in Code Section 223(c)} or eligible health expenses incurred after he or she satisfies the applicable minimum deductible for self-only or family coverage described in Code Section 223 (c), as applicable, and as adjusted for changes in cost-of-living under Code Section 223(g) (“Limited Purpose Coverage”).
- c. Coordination with Health FSA (Flexible Spending Account) – If an employee participates in a Health FSA of the Employer, and if he or she wishes to enroll in the HDHP and make or receive contributions to an HSA, then prior to the beginning of the Health FSA plan year, the individual shall decline coverage under the Health FSA for the plan year, or shall elect Limited Purpose Coverage under the Health FSA for that year.
- d. Ordering Rule
 - i. If an employee is enrolled in Limited Purpose Coverage under a Health FSA, and if the Employer so provides in the adoption agreement for VEBA, medical expenses that are eligible for reimbursement under the Limited Purpose Coverage option of the Health FSA shall be paid from the Health FSA first, before any amount is payable from the VEBA, until the individual’s Health FSA account is exhausted.
 - ii. If an employee is enrolled in Limited Purpose Coverage under the VEBA, and to the extent applicable has exhausted any coverage in his or her Health FSA, medical expenses that are eligible for reimbursement under the Limited Purpose Coverage option of the VEBA shall be paid from the VEBA next, until the individual’s account in VEBA is exhausted.
 - iii. If the employee elects “crossover” or a similar feature offered by an HSA custodian, medical expenses that are not eligible for reimbursement from the Health FSA or the VEBA, either because they are not Limited Purpose Coverage or because the Health FSA or VEBA has been exhausted, will be reimbursed from the HSA last.
 - iv. Whether or not the employee elects crossover, he or she is free to withdraw amounts from their HSA at any time, although distributions will be subject to income taxes (and penalties, if younger than age 65), unless funds are used to reimburse medical expenses that are not reimbursed through other coverage.

201.604 – Postretirement Health Care Savings Arrangement

(A) Introduction

- (1) In order to help eligible employees pay for medical expenses in retirement, the City of Bemidji (“Employer”) has adopted the Postretirement Health Care Savings Arrangement. This arrangement provides for individual medical reimbursement accounts funded with employer contributions. If eligible for this benefit, the employee, their spouse, and their dependents may draw on the account after

retirement for the tax-free reimbursement of medical expenses. Money contributed to the account will be held in trust.

- (2) The Postretirement Health Care Savings Arrangement is made available through the Minnesota Service Cooperatives VEBA Plan and Trust (the "VEBA"). It is intended that this arrangement constitute a Voluntary Employees' Beneficiary Association under Section 501(c)(9) of the Internal Revenue Code. A detailed description of this arrangement is available upon request.

- (B) Eligibility – Subject to the exclusions below, the following group or groups of employees are eligible to receive employer contributions to their individual accounts:

Eligible employees: Non-Union Regular Employees who are age 54 or older.

Excluded employees:

- Collectively bargained employees, if accident and health benefits were subject to good faith bargaining.
- Part-time employees whose customary weekly employment is less than thirty (30) hours.
- Seasonal employees whose customary annual employment is less than seven months.

If you are eligible to participate, you will automatically be enrolled in the Post-retirement Health Care Savings Arrangement on the sooner of your retirement date or the date that the Employer makes a contribution to your account.

- (C) Retirement – Subject to the age and service requirements for eligibility, if any, your "retirement date" shall be the earlier of the following:

1. your termination of employment;
2. your "retirement" as that term may be defined under other policies or employee benefit plans of Employer;
3. the date you become totally disabled; or
4. the date you commence a medical leave of absence as determined by other policies or employee benefit plans of the Employer.

- (D) Source of Funding – The Postretirement Health Care Savings Arrangement is funded entirely with employer contributions.

- (E) Employer Contributions – If an employee is eligible to participate in the Post-retirement Health Care Arrangement, the Employer will make contributions to the VEBA in an amount equivalent to the following:

- Unused Sick Pay. Within sixty (60) days of the effective date of retirement, the Employer shall contribute 50% of the amount of the employee's unused sick leave, if any. The employee is not eligible to receive this amount in the form of taxable cash compensation.
 - For example, if an employee has 180 hours of unused sick leave, 90 hours would be paid into the employee's VEBA account (180 hours x 50% = 90 hours).

- Unused Paid Time Off (PTO). Within sixty (60) days of the effective date of retirement, the Employer shall contribute 100% of the amount of the employee's unused PTO or vacation, if any. The employee is not eligible to receive this amount in the form of taxable cash compensation.
- (F) Administrative Fee – Administrative fees allocable to individual accounts of former employees, including retirees, shall be paid from the individual accounts.
- (G) Impact on Other Arrangements – This policy supersedes and revokes all previous policies on this matter, including, to the extent applicable, other written or oral statements of policy and procedure that address the payment of accumulated sick pay, vacation pay, severance pay, or other welfare benefits. The policies and procedures outlined herein are not intended to create any contractual rights or duties, and will be applied at Employer's discretion. Although contributions made to your account in the Post-retirement Health Care Savings Arrangement are irrevocable, Employer may amend or terminate its contribution policy at any time.

201.605 – Life Insurance

- (A) The City provides a \$30,000 term life insurance policy for all employees working a minimum of 30 hours/week (coverage is mandatory), unless a collective bargaining agreement states otherwise. Life insurance for the employee's spouse and dependents, as well as increased coverage amounts, is optional at the employee's expense.
- (B) Employees have the option to purchase additional life insurance through PERA, at their own expense, which includes minimal coverage for spouse and dependents.

201.606 – Disability Insurance

- (A) Employees have the option to purchase Short-term and/or Long-term Disability Insurance. If loss of work occurs due to disability, the employee is paid according to the schedule of benefits described in the disability policy. Coverage is available at the employee's expense.

201.607 – Other Benefits

- (A) Flexible Spending Account – The City has a Flexible Spending Account (FSA) integrated into the Plan. The FSA plan is for employees who choose to pay for certain medical and day care expenses on a pre-tax basis. The employees must declare the amount he/she wishes to pay on a pre-tax basis each year. The total amount declared by the employee will be withheld from the first two paychecks of the month. Employees may request the maximum IRS-allowed contribution amount for medical/health care expenses. The maximum amount for daycare expenses is \$5,000. When expenses are incurred, the employee shall complete a reimbursement voucher in order to receive reimbursement for the expenses from the plan administrator. If at the end of the year the employee's actual expenses are less than the estimated expenses, the employee shall forfeit those funds. Claims may be made up to 90 days after yearend or retirement date, whichever is earlier. Reimbursement forms can be obtained in the Finance Office.
- (B) Deferred Compensation Plan – Each employee has the option of participating in the qualified Deferred Compensation Plans offered.

- (C) Public Employees Retirement Association (PERA) – Membership in PERA is automatic for public employees who meet position eligibility requirements set by Minnesota statute. Employees meeting those requirements will be enrolled as a member in PERA where contributions are made by the employee and the City to a Coordinated Plan.
- (D) Annual Event – The City shall hold an annual Employee Recognition Dinner and Awards Presentation to recognize the longevity and significant achievements of its employees and elected officials. All regular full-time and regular part-time City employees and elected officials are entitled to attend this annual event without cost.
- (E) Eye Care Reimbursement – City employees will receive up to \$150.00 per year for reimbursement on prescription eyeglasses (including frames and contact lenses). The City will allow employees to use up to \$20.00 of their \$150.00 annual allowance to purchase reading glasses, in lieu of prescription glasses. Receipts must be submitted to the Finance Office with the employee and supervisor’s signature for processing.
- (F) Dental Insurance – Employees have the option to purchase dental insurance coverage through the City’s plan.
- (G) Clothing Allowance – Non-union employees required to wear a uniform in their position will be given a clothing allowance similar to that of the respective labor union members. Department Heads shall determine which employees are required to wear uniforms and assign the dollar amount prior to issuance of the clothing allowance payment by the Finance Office.
- (H) Safety Footwear – Non-union, Seasonal and/or Temporary employees required to wear safety footwear in their position will be reimbursed up to sixty dollars (\$60) per calendar year towards the purchase price of approved safety footwear. Department heads shall determine which employees are required to wear safety footwear and will present a copy of the employee’s receipt to the Finance Office with their signature approving the payment.
- (I) Employee Recognition – The City will sponsor cake and refreshments (up to \$50) for employees who have completed probation and resign in good standing. The City will sponsor cake and refreshments (up to \$100) for retiring employees. In addition, retiring employees will receive:
 - 10-14 years of service – award with a value up to \$50
 - 15-20 years of service – award with a value up to \$100
 - 21+ years of service – award with a value up to \$150

Funds will come from the budget of the department for which the employee works. Any additional food, refreshments, gifts or activities will be employee-paid.

201.701 – Payroll

The Finance Department handles all payroll, fringe benefit administration and issues surrounding it. Questions regarding these issues should be taken to the Finance Department.

Payroll deductions will only be permitted for City-sponsored and pre-tax benefit options.

201.702 – Salary Schedule

The Finance Director is responsible for implementing the salary schedule approved by the City Council.

201.703 – Pay Period / Paydays

- (A) Employees shall be paid every two weeks and timesheets cover a two week period starting on Sunday and ending on Saturday. Timesheets must be submitted no later than the Monday following the end of the pay period to ensure being included with the following Friday's payroll and shall accurately reflect all actual hours worked during the pay period. Timesheets must be submitted to the Finance Office by 10:00 a.m. on the Monday prior to payday. Department Heads will establish internal timelines to provide ample time to collect, review, approve and submit timesheets to the Finance Office.
- (B) As provided for in Minnesota law, the City requires direct deposit for all employees being paid by its payroll and expense reimbursement systems. Employees are responsible for maintaining their payroll, deduction, contact and bank account information on the "Employee Self Service" system.
- (C) Direct deposits are made and pay stubs are available to employees on the Friday following the end of the payroll period via the "Employee Self Service" system. If the payday falls on a holiday, direct deposits and pay stubs will be available after 4:00 p.m. on the prior work day.
- (D) All payroll period hours are compensated at the rate in effect on the payroll check date.

201.704 – Reimbursement

As a recipient of payments from the City of Bemidji, employees are required to utilize the Payroll Direct Deposit / Expense Reimbursement Electronic Funds Transfer (EFT) Program. EFT payments are automatically and securely deposited into your designated checking or savings account. You will be notified of any electronic reimbursement payment via e-mail, which will provide you with the information normally included on the check stub (such as invoices paid, payment date, etc.).

201.705 – Final Pay following Termination of Employment

Employees who have been terminated for any reason from the City of Bemidji shall receive their final pay settlement a maximum of two weeks from the date of termination, coinciding with the normal payday, unless otherwise permitted by State or Federal law.

201.706 – Severance Pay

Subject to Section 201.604, employees who leave employment voluntarily or otherwise separate from City employment and are eligible to receive monthly retirement benefits under the provisions of PERA or the Police/Fire Benefit Association, shall be granted severance pay based on the following conditions and rates:

- a. Conditions
 - (i) Voluntary termination.
 - (ii) Termination of employment due to health reasons, service connected injury, or illness.
 - (iii) In the event of employee's death, severance pay shall be paid to the beneficiary.
 - (iv) Severance pay cannot be used to extend the employee's date of termination beyond the last scheduled workday unless approved by the City Manager.

- b. Rates
 - (i) For employees covered under the Paid Time-Off Policy: Upon termination of employment with the City of Bemidji, a payout of accumulated PTO time will be paid at the employee's existing hourly wage rate.

 - (ii) Sick Leave Severance: All employees shall be entitled to a payout equal to one-half of their accumulated sick leave hours. This would be a maximum of 480 hours pay. Payment of unused sick leave shall be based on the employee's existing hourly wage. In the event of death, severance pay shall be paid to the beneficiary.

 - (iii) Vacation Severance: All employees shall be entitled to a payout of accumulated vacation time not to exceed 320 hours. Payment of unused vacation leave shall be based on the employee's existing hourly wage. In the event of death, severance pay shall be paid to the beneficiary.

 - (iv) Comp Time: All non-exempt employees shall be entitled to a payout of accumulated comp time at the employee's existing hourly wage rate.

201.707 – Minnesota Wage Disclosure Protection Law

Under the Minnesota Wage Disclosure Protection Law, which is included in the Women's Economic Security Act (WESA), 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 personnel policies. To that end and in accordance with Minn. Stat. §181.172, the City may not:

- Stop you from telling anyone about your wages or conditions of employment;
- Require you to sign a waiver that takes away your right to tell others about your wages or working conditions; or
- Treat you differently because you told someone about your wages or working conditions.

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

201.801 – Employee Orientation

- (A) Supervisors shall be responsible for providing time for all employees to attend New Employee Orientation during their first day on the job. Orientation shall include review of City services, insurance and workers' compensation coverage, personnel policies, internal communications, fringe benefits, safety procedures, payroll and employment forms, and any other policies, procedures or programs which may affect the person's employment. Orientation will be provided on an ongoing basis as policies and procedures are created or revised.
- (B) Acknowledgment of Personnel Policies – Each employee shall be given a copy of the Personnel Policies, shall acknowledge receipt in writing on a form provided, and shall state on this form that they have read the Personnel Policies and agree to abide by them (see Page 59).

201.802 – Employee Licensing, Training & Development Opportunities

- (A) Employees are encouraged and will be given the opportunity to further develop their work-related skills through continuous training. Employees planning on attending training and/or development must comply with the City's Travel & Per Diem Policy (Section 201.311).
- (B) City Initiated Training or Required Licensing – When an employee attends a conference, seminar, training program, or school at the request of their supervisor or to maintain a City or State mandated license or certificate relevant to his/her position, authorized expenses incident to the training shall be borne by the City.
- (C) Training Requested by the Employee – At the request of the employee, the actual cost of training or schooling authorized by the supervisor may be reimbursed after satisfactory completion of training. The actual cost of the training shall be determined by the supervisor, taking into account: the individual's salary for the duration of the training; travel and living expenses; tuition; registration costs; text books, supplies and authorized incidentals; and such other costs as the supervisor deems appropriate.

201.803 – Loss of License

- (A) Employees who drive or operate any City vehicles and/or equipment must notify their supervisor immediately if their driver's license is revoked, lost, stolen, cancelled, or suspended.
- (B) Employees must notify their supervisor immediately if a Federal, State or City mandated license or certificate required for their position has been or is going to be cancelled, revoked, suspended or expired.

ACKNOWLEDGEMENT OF PERSONNEL POLICIES

SECTION 201.801 (B)

I, the undersigned employee for the City of Bemidji, do hereby acknowledge receipt of the City's updated Personnel Policies, which became effective after adoption by the Bemidji City Council on **April 4, 2016**.

I have reviewed the policies and understand it is my responsibility to be familiar with the requirements contained therein.

Employee
Name:

(print your name)

Employee
Signature:

Date:

201.901 – Safety

- (A) It is the policy of the City of Bemidji to maintain a safe and healthy environment for both its employees and the customers it serves. To maintain the highest level of safety, employees shall familiarize themselves with the safety procedures specific to his/her position and, when provided, employees are required to wear personal protective equipment. To assist with safety needs, a First Aid Kit will be located in each City building and in each City vehicle.
- (B) The City shall at all times provide the safest working conditions possible. Pursuant to Minnesota Statute 182.653 Subd.8, the City will review, update, and provide training on its AWAIR (A Workplace Accident & Injury Reduction) Program annually. In addition, it is the duty of each department head to establish safety regulations, instruct workers in accident prevention, and provide safety meetings for employees on a regular basis.
- (C) The City shall provide the proper tools and equipment necessary for a safe work environment. It shall be the duty and responsibility of each employee to operate and use all tools and equipment in a safe and careful manner. Each employee shall be responsible to insure that all safety equipment and rules are used and followed at all times and it shall be the employee's responsibility for insuring that he/she is familiar with the safe and proper use of any tool or piece of equipment before its use. Any employee who has a question concerning a safety practice should inquire of their supervisor.
- (D) The City will comply with all provisions of the State of Minnesota's Employee Right-to-Know Act (MERTKA) and will provide the required technical and health related information regarding hazardous substances in the workplace according to the specified procedures in the act.
- (E) Employees are required to familiarize themselves with the quickest path to the nearest emergency exit or designated tornado shelter area in the City building in which they work. Every City building will conduct at least one fire drill and one tornado drill annually. The tornado drill will coincide with the State-wide Tornado Drill during Severe Weather Awareness Week in April, and the fire drill will coincide with National Fire Prevention Week in October.
- (F) All employees are responsible for complying with all the provisions of the City's safety manual and for reporting any unsafe conditions.

201.902 – Accidents

- (A) If an employee is involved in an accident resulting in personal injury or causes damage to City-owned equipment or to public or private property while operating a City vehicle, or a privately owned vehicle in the performance of official City business, the employee shall:
- Get medical attention, if necessary;
 - Immediately notify their supervisor;
 - Complete the "State of Minnesota Department of Public Safety Traffic Accident Information Form", or any other reports required by state law; and
 - Provide information and copies of all reports filed to their immediate supervisor.

The supervisor shall report the incident to the Finance Department as soon as possible.

201.903 – Workers' Compensation

- (A) Workers' Compensation insurance provides wage replacement benefits to City employees who become ill or injured as a result of their job with the City. All workers' compensation claims are processed through the Finance Department.
- (B) Reporting Requirements: All occupational injuries or diseases must be reported to an employee's supervisor immediately so the appropriate forms can be completed by the employee and supervisor.

If the injury is not an emergency, you must contact the City's third party managed care provider to determine proper treatment. If the injury is an emergency, the employee should report to the hospital emergency room.

Forms must be submitted to the Finance Department within 24 hours of the incident. Forms are available from the Finance Department or on the City web-site.

- (C) Workers Compensation Benefits: Injured workers are entitled to weekly compensation, as defined in Minnesota Statutes, at the rate of 66 2/3% of their average weekly wage at the time of injury, subject to the maximum established by law. No workers compensation benefits are payable for the first three days in which an individual is disabled unless the disability continues for 10 calendar days. However, should the disability last less than 10 days, the City will provide the employee with regular base pay for these three days, to be treated as an approved Work Comp holiday for time keeping purposes.
 - All Workers Comp hours must be accounted for appropriately on timesheets (marked as Workers Comp in the holiday pay column with a "WC" next to the hours). Appointments should be marked down as time missed due to the injury or illness (medical appointments should be for actual hours – any excess would be sick leave unless it is an out of town appointment).
- (D) Workers Compensation Calculations

When an employee misses work due to a worker's comp injury, they will be compensated with a combination of payments from Worker's Compensation insurance and work comp holiday pay to ensure that their "take home" or net pay is not less than the average "take home" pay for the previous 12 months.

The previous 12 months of net pay will be calculated and averaged (which ensures that regular over time is accounted for in the calculation). If a worker has recently had a job change, pay increase, or significant change in elected deductions that will be taken into account for the average take home pay calculation.

The calculation of "take home" pay will be as such:

- City fringe benefit contribution plus any hours actually worked, less the elected deductions for that pay period
- Add the Worker's Compensation payment from the League of Minnesota Cities to find the actual "take home" pay
- Compare the total "take home" pay to the average for the previous 12 months

- If there is a deficit, Worker's Comp Holiday pay would be added to the employee's pay to make it equal to the average
- If there is a surplus, no Worker's Comp Holiday pay will be added to the employee's pay

(E) City Salary and Benefits: Accrued leave may not be used to supplement net pay.

The City will continue payment of the monthly employer contribution for an employee receiving workers compensation benefits for a period not to exceed eighteen months, consecutively or intermittently. After eighteen months, the employee has the option to continue coverage by making premium payments to the Finance Office.

Paid time off, sick and vacation leave will accrue while an employee is receiving worker's compensation payments as though the employee is still working.

(F) Return to Work: When an employee has missed work due to an occupational injury or illness, the employee is required to provide a Doctor's release form in order to return to work. This release form shall state any conditions which that employee must abide by concerning the amount or type of work he/she is allowed to perform.

201.904 – Damaged / Lost Personal Property

(A) The City may reimburse employees for damaged or lost personal property while performing normal work-related activities. This reimbursement shall be at the discretion of the City Manager. An example of such a reimbursement would be for a pair of eyeglasses lost or broken while performing normal work duties.

201.905 – Physical Activity Policy

(A) **Mission Statement:** The City of Bemidji, through its Wellness Committee, recognizes employee wellness is critical for successful delivery of city services. To that end, the City of Bemidji will foster a workplace environment that promotes a diversity of wellness activities, educates and encourages all employees to make healthy lifestyle choices and seeks increased employee participation in wellness activities.

(B) **Vision:** To create and sustain a healthy work culture that educates, motivates, and empowers City Staff to adopt and maintain healthy lifestyle behaviors.

(C) **Policy:** The City of Bemidji supports the effective use of walking meetings. Walking meetings are most effective when there are three or fewer individuals involved and the topic doesn't require handouts or extensive note-taking.

Staff must follow the current human resources dress code policy. However, employees are encouraged to keep a pair of walking shoes at their desks to allow for a walk break or walking meeting.

The City of Bemidji has made accessible maps that identify outdoor walking routes, including identification of paved community walking trails.

Through the City employee newsletters, employees will find opportunities regarding physical activity at least quarterly.

Physical activity is encouraged during rest and lunch breaks: Walking, fitness club workouts, weight training (see Section 201.309 – Lunch & Rest Breaks policy).

201.1001 PURPOSE

- (A) Abuse of drugs and alcohol is a nationwide problem and it affects persons of every age, race, sex and ethnic group. It poses risks to the health and safety of employees of the City of Bemidji and to the public. The City of Bemidji is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when a City employee illegally uses drugs on or off the job, comes to work under the influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. To reduce those risks, the City is adopting this policy concerning substance (drug and alcohol) use and abuse affecting the workplace. This policy establishes standards concerning drug and alcohol use, which all employees must meet. It also establishes a testing procedure to ensure that those standards are met.
- (B) This policy on substance use/abuse and drug and alcohol testing of employees and job applicants is established in accordance with Minnesota's 1987 Drug and Alcohol Testing in the Workplace Act (DATWA) as identified in Minnesota Statutes 181.950 through 181.957 and the Federal Drug-Free Workplace Act of 1988.
- (C) For purposes of this article, the following definitions will apply:
- 1) Accident - An occurrence which results in (a) a fatality; (b) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene; or (c) one or more motor vehicles incurring disabling damage, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
 - 2) Alcohol - ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
 - 3) Confirmatory Test or Confirmatory Retest - A drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Minnesota Statute 181.953, Subd. 1, as being reliable for providing specific data as to drugs, alcohol, or their metabolites detected in an initial screening test to ensure accuracy.
 - 4) Commissioner - the Commissioner of Minnesota Department of Health.
 - 5) Designated Employer Representative (DER) - Individual identified by employer as able to receive communications and test results from service agents and who is authorized to take immediate action to remove employees from safety-sensitive duties and to make decisions in the testing and evaluation process. The individual shall be an employee of the City.
 - 6) Disciplinary Action - Any of the actions defined in these policies.
 - 7) Drug - A controlled substance as defined in Minnesota Statute 152.01, Subd. 4, or 49 C.F.R. Part 40.
 - 8) Drug and/or Alcohol Test (or Testing) - Analysis of a body component sample according to the standards established under one of the programs listed in Minnesota Statute 181.953, Subd. 1 including blood, breath and urine, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
 - 9) Employee - A person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for the City.
 - 10) Employer - means the City of Bemidji acting through its City Manager or a designee of the City Manager.
 - 11) Initial Screening Test - A drug or alcohol test which uses a method of analysis under one of the programs listed in Minnesota Statute 191.953, Subd. 1, as being capable of detecting the presumptive presence of a drug, drug metabolite or alcohol in a

sample.

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

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

Positive test results for drugs other than those listed above shall be defined by the laboratory.

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

201.1002 POLICIES

- (A) It is a violation of City policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
- (B) It is a violation of City policy for any employee to report to work while possessing in or on their person, blood, or urine illegal drugs in any detectable amount.
- (C) It is a violation of City policy for an employee to be under the influence of or impaired by

drugs and/or alcohol while the employee is working or while the employee is on the employer's premises or operating the employer's vehicle, machinery, or equipment, except to the extent authorized by a valid medical prescription.

- (D) It is a violation of City policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.
- (E) Refusal to test is a violation of the policy. If an employee refuses to undergo requested or required testing, no such test will be given. However, the employee is then subject to disciplinary action up to and including termination pursuant to this Section and Section 201.500 of the policies.

If an employee or job applicant refuses to undergo drug or alcohol testing of a blood sample upon religious grounds, they will not be deemed to have refused testing unless they also refuse to undergo testing of a urine sample.

- (F) As a condition of employment, employees must abide by the terms of this policy and must notify the City in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction, as required by the Drug-Free Workplace Act of 1988. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.
- (G) Employee Assistance – Employees needing help in dealing with drug and/or alcohol problems are encouraged to utilize the City's Employee Assistance Program or possibly their health insurance plan. The City also offers resource information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to contact the HR Technician to access this resource file.
- (H) Data Privacy - The Employer will not disclose the test result reports or other information acquired in the drug or alcohol testing process to another employer or to a third party, group or individual, governmental agency, or private organization without the written consent of the person tested, unless required by law or court order.
- (I) Pre-Employment Drug Testing

- 1) Job applicants may be required to undergo testing for the presence of illegal drugs as a condition of employment. If an applicant refuses to submit to drug and alcohol testing, no such test will be given, and the job applicant will be deemed to have withdrawn the application for employment. Any applicant with a confirmed positive test will be denied employment. The employee will have the right to a confirmatory retest at the employee's own expense if requested in writing within 5 working days after notice of the confirmatory test result.
- 2) Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by the City and, by signing a consent form, will release the City from liability.
- 3) If the physician, official, or lab personnel has reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment.
- 4) The City will not discriminate against applicants for employment because of a past history of drug abuse. It is the *current* abuse of drugs, preventing employees from

- performing their job properly, that the City will not tolerate.
- 5) Individuals who have failed a pre-employment test may initiate another inquiry with the City after a period of no less than six (6) months; but they must present themselves drug-free as demonstrated by urinalysis or other test selected by the City.
- (J) Employee Testing – The City has adopted testing practices to identify employees who use illegal drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:
- 1) Reasonable suspicion testing (Minn. Stat. § 181.951, subd. 5) – The employer may request or require an employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs and/or alcohol. "Reasonable suspicion" is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:
 - a) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse while the employee is working or while the employee is on the employer's premises or operating the employer's vehicles, machinery, or equipment;
 - b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 - c) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;
 - d) Information that an employee has caused or contributed to an accident while at work or was operating or helping to operate machinery, equipment, or vehicle involved in a work-related accident; or
 - e) Information that an employee has sustained personal injury or has caused another person personal injury as that term is defined in Minnesota Statutes 176.01 1, Subd. 16; or
 - f) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or drug paraphernalia while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
 - 2) Post-Accident Testing - When employees have caused or contributed to an on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and/or leaves the place of employment to seek care from a licensed medical provider. The City may also send an employee for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs.
 - 3) Follow-up Testing - As part of a follow-up program to treatment for drug abuse when an employee has voluntarily entered a rehabilitation program because of a positive confirmed test result. The frequency of such testing shall be a minimum of at least once a year for a two year period after completion of the rehabilitation program. Advance notice of testing shall not be given to the employee.
 - 4) Return-to Duty Testing - When a substance abuse test is conducted as part of a

routinely scheduled employee fitness for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group. These exams will be performed only once annually and the employee has to be given at least 2 weeks' notice that a drug or alcohol test may be requested or required as part of the physical examination (Minn. Stat. § 181.951, subd. 3).

- 5) Other Testing: The Employer may permit an Employee who has requested a drug and alcohol test to undergo testing in accordance with the procedures established by this policy.

(K) Alcohol Use and/or Abuse

- 1) The consumption or possession of alcoholic beverages on City premises is prohibited. City sponsored activities which may include the serving of alcoholic beverages are not included in this provision. An employee whose normal faculties are impaired due to the consumption of alcoholic beverages, or whose blood alcohol level tests *positive* while on duty, shall be guilty of misconduct and will be required participate in either a drug or alcohol counseling or rehabilitation program at the employee's own expense or possibly under an employee benefit plan. Failure to submit to a substance abuse test or attend counseling or rehabilitation shall be considered misconduct and the employee is subject to disciplinary action up to and including termination.
- 2) The first time an employee tests positive for drugs or alcohol they will be given the chance to participate in treatment prior to any discipline being imposed unless:
 - a. The City has given the employee an opportunity to participate in a drug or alcohol counseling or rehabilitation program; and
 - b. The employee has refused to participate or has failed to successfully complete the program within a reasonable time.
- 3) The second time an employee tests positive they may be subject to discipline or termination without being provided the opportunity for treatment.
- 4) If an employee has a positive test result, the City may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the employer believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
- 5) It is the responsibility of the supervisors to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug or alcohol problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them to utilize the City's Employee Assistance Program or possibly their health insurance plan for help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.
- 6) The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive, and drug-free environment. The intent of this policy is

to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the City.

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

201.1003 PROCEDURES

- (A) The City shall use the services of a testing laboratory that meets one of the following criteria for drug testing:
 - 1) Is certified by the National Institute on Drug Abuse as meeting the mandatory guidelines published at 54 Federal Register 11970 to 11989, April 11, 1988; or
 - 2) Is accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois 60093-2750, under the forensic urine drug testing laboratory program; or
 - 3) Is licensed by the Commissioner or qualifying under the transitional laboratory requirements set forth in Minnesota Statutes.
- (B) For alcohol testing, the laboratory must be accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois 60093-2750, in the laboratory accreditation program.
- (C) The City declares that all Police, Fire and Public Works Department positions, including but not limited to union, non-union, supervisory, and management positions, are hereby designated as "safety sensitive" positions.
- (D) This article shall be distributed to all City employees as part of the City Personnel Policies and receipt shall be acknowledged in writing by signing the *Acknowledgement of Personnel Policies* (Page 54).
- (E) Administrative Responsibility - Department heads shall be responsible for implementing this article.
- (F) An employee reporting to work visibly impaired will be deemed unable to properly perform required duties and will not be allowed to work. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative - depending on the determination of the observed impairment - and accompanied by the supervisor or another employee, if necessary. A drug test may be in order. An impaired employee will not be allowed to drive.
- (G) Testing Procedures
 - 1) Drug Testing Consent and Release Form – Before requesting an Employee or job applicant to undergo drug or alcohol testing, the Employer will provide the individual with a form on which to (1) acknowledge that the individual has received

a copy of, read, and understood this policy, (2) indicate any over-the-counter or prescription medications that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result, and (3) indicate consent to undergo drug and alcohol testing (see Page 78).

- 2) Test Sample – The test sample will be obtained in a private setting by a testing laboratory assigned by the City, and the procedures for taking the sample will ensure privacy to employees and job applicants to the extent practicable, consistent with preventing tampering with the sample, and may include a witness, and will conform with applicable rules of the Commissioner. No test sample will be taken on the employer's premises and the test sample will not be taken by an employee of the City of Bemidji.
- 3) Identification of Samples – Each sample will be sealed into a suitable container free of any contamination that could affect test results. The sample will be identified for processing by the licensed testing laboratory.
- 4) Chain of Custody – A written record of the chain of custody of the sample which conforms to the rules adopted by the Commissioner will be maintained. In addition, the written record will include a signature of each person accepting transfer of the sample and the date and time of the transfer.
- 5) Methods of Analysis – The testing laboratory will use methods of analysis and procedures to ensure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests.
- 6) Retention and Storage – Retention and storage procedures will comply with the rules adopted by the Commissioner, and all samples that produced a positive test result will be retained and properly stored for at least six months.
- 7) Test Report – The testing laboratory will prepare a written report indicating the drugs, alcohol, or their metabolites tested for, the types of tests conducted, and whether the test produced negative or positive test results, and the testing laboratory will disclose that report to the Employer within three (3) working days after obtaining the final test results.
- 8) Notice of Test Results – Within three (3) working days after receipt of the test result report from the testing laboratory, the Employer will inform an Employee or job applicant who has undergone drug or alcohol testing in writing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test. The Employer will also inform an Employee or job applicant of the following rights pursuant to M.S.A. 181.951:
 - a) The right to request and receive from the Employer a copy of the test result report.
 - b) The right to request within five (5) working days after notice of a positive test result, a confirmatory retest of the original sample at the Employee's or job applicant's own expense. If a confirmatory retest is conducted in accordance with the rules adopted by the Commissioner and the confirmatory retest does not result in a positive test result, the City will reimburse the Employee or job applicant the actual cost of the confirmatory retest in an amount not to exceed \$200.

- c) The right to submit information to the Employer within three (3) working days after a notice of a positive test result to explain that result.
- d) Employees and job applicants will be given the opportunity to explain or contest a confirmed positive result with the Medical Review Officer (MRO) within five (5) working days after being notified by the MRO of the test result.
- e) The right of an Employee for whom a positive test result on a confirmatory test was the first such result on a drug or alcohol test requested by the Employer not to be discharged unless the Employer has first given the Employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program. Participation in a counseling or rehabilitation program will be at the Employee's own expense pursuant to coverage under an Employee's benefit plan. The Employer may determine which type of program is more appropriate for the Employee after consultation with a certified chemical-use counselor or a physician trained in the diagnosis and treatment of chemical dependency. The Employee may be discharged if she/he has either refused to participate in the counseling or rehabilitation program, or has failed to successfully complete the program. Withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program will be considered evidence that the Employee failed to successfully complete the program.
- f) The right to be reinstated with back pay if the outcome of the confirmatory or requested confirmatory retest is negative.
- g) The right not to be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the Employer concerning the reliability of, or explanation for, a positive test result unless the Employee or job applicant was under an affirmative duty to provide the information before, upon, or after hire.
- h) The right to access the information relating to their positive test result reports and other information acquired in the drug and alcohol testing process including conclusions drawn from and actions taken based on the reports or other acquired information.
- i) The right of an Employee or a job applicant, who has received a job offer made contingent on the applicant passing drug and alcohol testing, to not have the offer withdrawn based on a positive test result from an initial screening test that has not been verified by a confirmatory test.

(H) Appeals Procedure –

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

who is a veteran may have additional rights under the Veterans Preference Act, Minn. Stat. 197.46.

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

201.1004 FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) & DEPARTMENT OF TRANSPORTATION REQUIREMENTS

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

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

(C) Conduct

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

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

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

- a) the City can verify that the driver has participated in a valid drug testing program within the preceding 30 days.
 - b) while participating in that program, the driver was either tested within the past 6 months or participated in a random selection program for the previous 12 months. The City shall also verify that no prior employer of the driver has records indicating a violation of any DOT rule pertaining to controlled substance use within the previous 6 months.
- 2) Post-Accident Testing
- a) When an accident involves a human fatality, surviving drivers shall submit to post-accident drug and alcohol testing. When a driver is involved in an accident that requires immediate medical treatment away from the scene or disabling damage to any motor vehicle requiring tow away or is issued a citation, the driver shall submit to a drug and alcohol test.
 - b) The DOT requires that any time a post-accident drug or alcohol test is required, that it be performed as soon as possible following the accident. If no alcohol collection can be made within 8 hours, attempts to collect an alcohol sample shall cease. If no urine collection can be obtained for purposes of post-accident drug testing within 32 hours, attempts to make such collection shall cease. However, reasons for no collection shall be documented every 2 hours as required by DOT guidelines.
 - c) An employee subject to post-accident testing must remain available or the employee shall be considered to have refused to submit to testing. The employee is prohibited from using alcohol for eight (8) hours following the accident or until the employee has undergone testing, whichever comes first.
- 3) Reasonable Suspicion Testing
- a) Reasonable suspicion for requiring a driver to submit to drug and/or alcohol testing shall be deemed to exist when a driver manifests physical or behavioral symptoms or reactions commonly attributed to the use of controlled substances or alcohol. Such driver conduct shall be witnessed by at least one supervisor trained in compliance with CFR 382.603.
- 4) Return-to-duty Testing
- a) An employee found to have violated this policy shall not return to work until after undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a verified negative result for controlled substances.
- 5) Follow-up Testing
- a) Following a determination by a Substance Abuse Professional (SAP) that an employee is in need of assistance in resolving problems with alcohol and/or controlled substance use and/or abuse, the employee shall be subject to unannounced follow-up testing as directed by the SAP. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty.

6) Random Testing

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

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

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

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

(G) Substance Abuse Evaluation

- 1) The City shall provide a list of names, addresses and telephone numbers of qualified substance abuse professionals to employees (including new applicants) who violated DOT drug and alcohol regulations. If the driver desires to become re-qualified, the driver shall be evaluated by a Substance Abuse Professional (SAP) and submit the SAP's recommendations which may include education and treatment, in order to become re-qualified. The driver shall submit to and successfully complete a return-to-duty drug and/or alcohol test. Such driver is also subject to follow-up testing. Follow-up testing is separate from and in addition to the City's reasonable suspicion, post-accident, and random testing procedures. Follow-up testing shall be on a random basis and be in accordance with the instruction of the SAP. Follow-up testing may continue for a period of up to 60

months following the driver's return to duty. No fewer than 6 follow-up tests shall be performed in the first 12 months. The costs of the SAP evaluation, education and prescribed treatment shall be discussed with the driver and payment responsibility shall be assigned based on benefits and union agreements. The City does not guarantee or promise a position to the driver should he/she regain qualified status.

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

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

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

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

(J) Alcohol Tests

- 1) The City shall perform initial alcohol tests using saliva or breath testing methods approved by the Department of Transportation. The driver shall follow all instructions given by the alcohol testing technician. In the event a driver tests positive on the initial test, he/she shall submit to a confirmation test performed on an approved evidential breath testing analyzer. If the confirmation result is 0.02 to 0.039, the driver shall be removed from duty for 24 hours or until his/her next scheduled on-duty time frame expires. Drivers with tests indicating an alcohol concentration 0.04 or higher are considered to have violated DOT regulations, shall be removed from safety-sensitive duties and shall be referred to a substance

abuse professional (SAP). Random, post-accident and alcohol tests shall be performed just prior to, during, or just after duty. Return-to-duty tests shall be performed after the SAP has determined the employee has successfully complied with prescribed education and/or treatment.

(K) Training

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

| | |
|---|--|
| Designated Employer Representative (DER): | Administrative Assistant / HR Technician (218) 759-3562 |
|---|--|



**CITY OF BEMIDJI
DRUG TESTING CONSENT AND RELEASE FORM**

I hereby consent to the collection of my blood and/or urine for screening as determined by the City of Bemidji, for the purpose of determining the drug content thereof.

I agree that Sanford Occupational Medicine, or a designated testing laboratory, may collect these specimens for these tests and may test them or forward them to a testing laboratory designated by the City for analysis.

I further agree to and hereby authorize the release of the results of said tests to the City of Bemidji.

I understand that it is the current use of illegal drugs or alcohol that would prohibit me from being employed at the City or affect my current employment status with the City.

Following is a list of over-the-counter or prescription medications that I am currently taking or have recently taken:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

I further agree to hold harmless the City and its agents from any liability arising in whole or part, out of the collection of specimens, testing, and use of the information from said testing in connection with employment with the City.

I further agree that a reproduced copy of this consent and release form shall have the same force and effect as the original.

I hereby acknowledge that I have read and understand the City's Substance Abuse & Testing policy and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced into signing this document.

APPLICANT:

Print Name: _____ SSN: _____

Signature: _____ Date: _____

WITNESS:

Print Name: _____ Date: _____

Signature: _____

201.1101 – Dedication to Values

- (A) The proper operation of democratic government requires:
- (1) That public officials be honest, impartial, and responsible to the people;
 - (2) That government decisions and policies be made in the proper channels of the government structure; and
 - (3) That public office not be used for personal gain, so that the public will have confidence in the integrity and ability of its government.
- (B) In recognition of these goals, this policy is established to guide all officials and employees of the City, whether elected or appointed, paid or unpaid, including members of boards, committees, commissions, and volunteers of the City.

201.1102 – Dedicated Service

- (A) All officials and employees of the City should be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by the officially recognized confidentiality of their work.

201.1103 – Conflict of Interest

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

201.1104 - Values and Principles

- (A) This list of principles incorporates the characteristics and values that most people associate with ethical behavior. An ethical decision systematically considers which, if any, of the following principles are involved. These principles should be used as a guide by all City officials and employees.
- (1) Honesty - Honest persons are truthful, sincere, forthright, straightforward, frank, and candid; they do not cheat, steal, lie, deceive, or act deviously.
 - (2) Integrity - Persons with integrity are principled, honorable, and upright; they are courageous and act on convictions; they will fight for their beliefs and will not adopt an "ends justifies the means" philosophy that ignores principles or be expedient at the expense of principles, be two-faced, or unscrupulous.
 - (3) Promise-Keeping - Persons worthy of trust keep promises, fulfill commitments, and abide by the spirit, as well as the letter, of an agreement; they do not interpret agreements in an unreasonably technical or legalistic manner in order to rationalize non-compliance or create justifications for escaping their commitments.
 - (4) Fidelity - Persons worthy of trust demonstrate fidelity and loyalty to persons and

institutions by friendship in adversity and support and devotion to duty; they do not use or disclose information learned in confidence for personal or political advantage. They safeguard the ability to make independent, professional judgments by scrupulously avoiding undue influences and conflicts of interest.

- (5) Fairness - Fair persons manifest a commitment to justice, the equal treatment of individuals, tolerance for and acceptance of diversity, and they are open-minded; they are willing to admit they are wrong and, where appropriate, change their positions and beliefs; they do not overreach or take undue advantage of another's mistakes or difficulties.
- (6) Caring - Concern for the well-being of others manifests itself in compassion, giving, kindness, and serving; it requires one to attempt to help those in need and to avoid harming others.
- (7) Respect - Ethical persons demonstrate respect for human dignity, privacy, and the right to self-determination of all competent adults; they are courteous, and decent; they provide others with the information they need to make informed decisions about their own lives.
- (8) Citizenship - In a democracy, responsible citizenship is an ethical obligation; it involves lawfulness (abiding by laws and rules of society), participation (by voting and expressing informed views), social consciousness, and public service; public sector professionals have the additional responsibility of encouraging participation of others and a special obligation to respect and honor the democratic processes of decision making and avoiding unnecessary secrecy or concealment of information and assuring that the citizenry has all the information needed to exercise responsible citizenship.
- (9) Excellence - Ethical persons are concerned with the quality of their work; they pursue excellence, they are diligent, reliable, industrious, and committed. A public sector professional must be well informed and well prepared to exercise public authority.
- (10) Accountability - Ethical persons accept responsibility for decisions, for the foreseeable consequences of their actions and inactions, and for setting an example for others. Persons in the public sector have a special obligation to lead by example, to safeguard and advance the integrity and reputation of the legislative process, to avoid even the appearance of impropriety, and to take whatever actions are necessary to correct or prevent inappropriate conduct of others.
- (11) Avoidance of the Appearance of Impropriety - Because of the unique importance of credibility and public trust, government officials and employees must avoid even the appearance of impropriety.