

CITY OF WHITEFISH PERSONNEL POLICY



(As Adopted on November 6, 2023, by Resolution No. 23-39)

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RECEIPT AND ACKNOWLEDGEMENT

It is expressly understood that the City of Whitefish Personnel Policy does not constitute a guarantee of employment or promise of any kind. The City of Whitefish, in its sole discretion, may direct, hire, promote, transfer, assign, and retain employees; supervise, discipline, and relieve employees from their duties; determine, and change hours of work, shifts, and methods of operation; and establish change, or abolish, its policies, practices, rules, and regulations. If you are an employee covered under a Collective Bargaining Agreement (CBA), the terms of the CBA apply whenever inconsistent with this Personnel Policy.

It is understood that the Personnel Policy is issued to inform employees regarding the operating policies of the City of Whitefish. The policy may be changed from time to time at the sole discretion of the City of Whitefish and is to be used as a guide to City of Whitefish employees in the performance of their duties. Any violation of the Personnel Policy may result in disciplinary action, up to, and including termination.

By signing this statement, the employee acknowledges the Personnel Policy has been received and read and that the employee understands the policies contained herein.

Signed _____

Date _____

Print Name _____

Position _____

Effective Date of Employment _____

City of Whitefish Personnel Policy

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INTRODUCTION LETTER

PREFACE A

Welcome New Employee:

The City of Whitefish is pleased that you have joined our organization of professionals. The City of Whitefish is a professional organization providing many valuable municipal services to residents, and visitors, of the City. Your position has been designed to assist the City of Whitefish with providing these services and your hiring demonstrates we believe you are up to the challenge. We hope you will find this position both rewarding and challenging.

During your probationary period, your employment with the City of Whitefish is at will and may be terminated, with or without cause, at any time by either you or the City of Whitefish. These policies are not an employment contract. They are designed to provide you general information regarding employment practices and benefits with the City of Whitefish. Policies cannot cover all employment situations, scenarios, or questions, but are designed to cover the basic rules. Policies will be added, updated, or deleted as determined by the City of Whitefish. You are encouraged to submit suggestions or ideas regarding current policies or additional policies to me or to Human Resources.

As you familiarize yourself with the City of Whitefish staff, and your new work environment, please note employee bulletin boards displaying the required federal and state postings. The postings are updated from time to time so please be sure to read the board occasionally. If you notice an item that is obsolete or needs updating, please let Human Resources know.

During your first few days working for the City of Whitefish, you will probably have general questions regarding our organization and policies. You are encouraged to familiarize yourself with our policies, but do not hesitate to ask your supervisor, Human Resources, or me if you have any questions.

The City of Whitefish staff welcomes you to our team and we hope you enjoy your employment here with us.

Sincerely,



Dana Smith
City Manager
City of Whitefish

CITY/TOWN HISTORY

PREFACE B

The City of Whitefish was originally incorporated in 1905 and advanced from a town to a 3rd Class city in 1911. Whitefish advanced to a 2nd Class city upon the passage of Resolution No. 05-26 on August 15, 2005. The 2020 Census population of Whitefish was 7,751. Our current area is approximately 7.39 square miles without including the area of Whitefish Lake. With Whitefish Lake included, our area is 12.57 square miles.

The City of Whitefish operates under a Charter form of government with an elected Mayor and six-member City Council. There is also an elected Municipal Judge. The City Manager is the Chief Executive of the City and is responsible for administering policy as set by the Mayor, and City Council, and for day-to-day operations.

The City of Whitefish is a full-service city providing police, fire, water, wastewater, stormwater, street maintenance, planning, building inspection, parks and recreation, Municipal Court, and administrative services. We also provide fire services to the Whitefish Fire Service Area which encompasses a large area surrounding Whitefish. The City's elected officials and staff take great pride in the level and quality of services that we provide to citizens and visitors.

1. Administration

- A. The City of Whitefish (City) specifically reserves the right to repeal, modify, or amend these policies at any time, with or without notice. None of these provisions will be deemed to create a vested contractual right in any employee, nor to limit the power of the City Council to repeal or modify these rules. The policies are not to be interpreted as promises of specific treatment.

Under Section 3.03 of the City Charter, the City Manager is directed to administer all City personnel actions.

The City Manager is responsible for ensuring the effective administration of these policies and procedures and may delegate such functions as deemed necessary. The City Manager may adopt, amend, or rescind written administrative procedures consistent with these rules and procedures. The City Manager will advise the City Council of any administrative changes.

- B. The City Manager is responsible for directing and coordinating personnel activities of the City and has final authority for administration of the personnel policy manual. Human Resources is responsible for the daily administration, personnel records management, development of policy recommendations, instructions for implementation, and is the source of expertise in the application and intent of these personnel policies. If policy discrepancies arise, Human Resources will seek an interpretation from the City Manager to determine the application and intent of these policies. Questions about employment, including insurance, wages, benefits, and interpretation of policies should be directed to Human Resources or your supervisor. The City Manager, or designee, is responsible for directing and coordinating the following:
- 1) Preparation of position classification and pay plans and directing the administration of these plans.
 - 2) Computation of a budget for personnel services for all departments.
 - 3) Recruiting, testing, selecting, and hiring of all City employees.
 - 4) Approving the appointment, promotion, demotion, transfer, discipline, discharge, and other actions affecting persons employed by the City.
 - 5) Supervising, developing, and maintaining the personnel system, including written forms, procedures, and records.
 - 6) Maintaining a current roster of all persons employed by the City.
 - 7) Directing employee orientation, training, counseling, and career development in conjunction with Department Directors.

- 8) Administering the fringe benefit programs.
 - 9) Providing for performance evaluation reviews of employees.
 - 10) Administering the personnel policies and procedures including the employee grievance procedures.
 - 11) Performing any other lawful acts which are considered necessary, or desirable, to carry out the purpose of the personnel system and the provisions outlined in these policies.
- C. The provisions of this personnel policy will not be construed as limiting in any way the power and authority of any department head to make departmental rules, and regulations, governing the conduct and performance of employees. Such departmental rules and regulations, however, may not conflict with provisions of these policies and will be reviewed by Human Resources and/or Legal Services.
- D. Suggestions for amendments to these policies are welcomed at any time from employees covered by the policy provisions. All suggested amendments must be submitted in writing to the City Manager, Human Resources and/or designees.

2. Definitions

Conflict of Interest – Conflicts of interest for employees arise when an employee's personal or financial interest conflicts, or appears to conflict, with their official responsibility.

Discipline – Correction, punishment, or penalty. Discipline, when appropriate, is used to resolve situations where there have been violations of Federal, State, or Local laws, City rules and regulations, employee conduct/behavior/performance standards, or City policies.

Exempt Employee¹ - Exempt employees are those who, according to the Fair Labor Standards Act (FLSA), are not covered under the provisions pertaining to minimum wage or overtime pay. The FLSA provides for certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity. Certain computer professionals are also included in the exemption. In order to qualify as an exempt employee, certain tests relating to duties, responsibilities, and salary must be met (see Human Resources for details).

Grievance – An injury, injustice, or wrong which gives ground for complaint because it is seen as unjust, discriminatory, or oppressive. Employees file grievances through the Grievance Procedure contained in this policy or pursuant to their Collective Bargaining Agreement.

Hours Worked - Generally includes all the time an employee is on duty at the employer's establishment, or at a prescribed workplace, as well as all other time during which the employee

¹ Section 13(A)(1) FLSA as defined by regulations, 29 CFR Part 541

is suffered, or permitted, to work for the employer. For overtime calculations, hours worked do not include hours for vacation leave, sick leave, personal days, workers' compensation, or compensatory time taken.

Immediate Family - The employee's spouse, any member of the employee's household, or any parent, child, sibling, grandparent, or grandchild, and corresponding step, or in-law relationships.

Independent Contractor - Independent Contractors are not considered employees of the City. Rather, Independent Contractors are those who work on a contract for services basis and must complete work assignments or responsibilities and receive payment as identified in the contract. The City does not have the right to control how or what will be done by the Independent Contractor to complete the work assignment, only the right to control the results of the work. No employee benefits are provided to the Independent Contractor.

Nonexempt Employee - A nonexempt employee is an employee who, according to the FLSA, is entitled to receive at least minimum wage and receive overtime pay or overtime compensatory time after the employee has worked 40 hours in a work week. Overtime pay is equivalent to one and one-half times the employee's regular hourly pay for each hour worked over 40 hours worked within the work week.

Regular Full-Time Employee - An employee who normally works 40 hours a week. Regular full-time employees are eligible for all employee benefits.

Regular Part-Time Employee - An employee who normally works less than 40 hours a week. Regular part-time employees who work more than 20 hours per week are eligible for limited medical/dental/vision insurance benefits on a prorated basis.

Remote Employee - An employee who performs the majority of their work in a location different from where the City's general operations occur. They may or may not be covered under the provisions of the FLSA, depending on the status of their employment, and have specific conditions of employment. Alternative work sites for remote employees are limited to the State of Montana.

Seasonal Employee² - An employee designated as seasonal at time of hire who performs duties interrupted by the seasons and who may be recalled without the loss of rights or benefits accrued during the preceding season. A seasonal employee may be eligible for limited or prorated benefits.

Short-Term Worker³ - An employee who is hired on a temporary basis for a definite period of time, not to exceed 90 days within a 12-month period and will be terminated at the end of the employment period. This employee may perform temporary duties or regular duties on a temporary basis; however, the employee is not eligible to become a regular employee without completing a competitive selection process. The short-term worker is not eligible for any employee benefits including leave, holiday benefits, or any insurance benefits.

² Section 2-18-101(22) MCA

³ Section 2-18-101(23) MCA

Sick Leave – Period allowed by an employer to an employee for the employee, or the employee's immediate family sickness with pay but with no loss of seniority or other benefits.

Temporary Employee⁴ – An employee who is hired on a temporary basis for a definite period of time, not to exceed 12 months, and will be terminated at the end of the employment period. This employee performs temporary duties, or permanent duties, on a temporary basis; however, the employee is not eligible to become a regular employee without completing a competitive selection process. Temporary employees may be eligible for limited or prorated benefits.

Vacation Leave – A recess or leave of absence; a respite, or time of respite, from active duty or employment; an intermission, or rest period, during which activity or work is suspended; a period of freedom from duty, or work, but not the end of employment. Vacations do not result in loss of seniority or other benefits.

Workplace Violence – Any act or threat of physical violence, harassment, intimidation or other threatening, or disruptive behavior that occurs at the work site. It may range from verbal abuse to physical abuse.

3. Diversity and Harassment Prevention

A. Equal Employment Opportunity (EEO)

The City complies with all relevant Federal, State, and local laws, including rules and regulations established by the Equal Employment Opportunity Commission, (EEOC) and the Montana Human Rights Act. The City ensures equal employment opportunity regardless of race, religion, color, creed, national origin, sex, marital status, veteran/military status, genetic history, political belief, age, actual or perceived sexual orientation, or gender identity or expression, and mental/physical disability.

If an employee believes that they have been subjected to discrimination, including harassment, based upon any of these factors, they should immediately contact their supervisor to pursue corrective action. If the employee feels they need to resolve the problem by filing a grievance, they must pursue action through the Grievance Procedure stated within this policy.

B. Americans with Disabilities Act (ADA and the ADA Amendments Act (ADAAA))

The City complies with all applicable provisions of the Americans with Disabilities Act ("ADA"), the ADA Amendments Act, and equivalent state disability laws. It is the City's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability, or perceived disability, if the employee can perform the essential

⁴ Section 2-18-101(26) MCA

functions of the job with or without a reasonable accommodation. Consistent with this policy of nondiscrimination, the City will provide reasonable accommodations to a qualified individual with a disability, provided that such accommodation does not constitute an undue hardship on the City and/or a direct threat to the health and/or safety of the individual or others.

Employees or applicants who believe they need a reasonable accommodation to perform the essential functions of their job should contact Human Resources to request such an accommodation. The City will conduct an investigation to identify the barriers that make it difficult for the applicant or employee to perform their job. The City will then identify possible accommodations, if any, that will help to eliminate the limitation or barrier. If the accommodation is reasonable and will not impose an undue hardship on the City and/or a direct threat to the health and/or safety of the individual or others the City will make the accommodation.

The City may also propose an alternative accommodation(s). The City is not required to provide the accommodation preferred by the individual, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs, etc.).

The City will also make reasonable accommodations for conditions related to pregnancy, childbirth, or related medical conditions if requested with the advice of the employee's health care provider, as required by law.

C. **Gender Identity and Expression**

Policy: This policy sets forth the guidelines for addressing the needs of transgender and gender non-conforming employees and customers and clarifies how situations should be handled where questions may arise about how to protect the rights and safety of such employees and customers. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming employees and customers and the needs of each employee or customer must be assessed on a case-by-case basis.

Definitions:

“Gender Identity” refers to a person’s internal, deeply felt sense of being male, female, non-binary, or other gender, regardless of the sex the person was assigned at birth. The ability to determine someone’s gender identity rests with the individual.

“Gender Expression” refers to characteristics and behaviors that may be perceived as being masculine or feminine, such as appearance, clothing, hairstyles, mannerisms, speech patterns, and social interactions.

“Transgender” refers to someone whose gender identity is different than the individual’s sex assigned at birth.

“Gender Non-conforming” describes someone who has, or is perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations.

“Gender Transition” is the process or time period when an individual changes various personal aspect to be consistent with the individual’s gender identity. Many different ways to transition exist. For some individuals, it is a complex process that takes place over a long period of time; for others, it happens more quickly. Transition may include “coming out” (e.g., telling family, friends, or coworkers), using a different name, changing pronouns (e.g., he, she, they), changing clothes or appearance, and/or accessing medical treatment.

“Sexual Orientation” refers to a person’s sexual or emotional attraction to other people. It is important to note that sexual orientation is different from gender identity and expression. Transgender individuals can be gay, lesbian, bisexual, or straight, just like non-transgender people.

Privacy: Transgender and gender non-conforming employees and customers have the right to discuss their gender identity or expression openly or to keep that information private. The employee or customer gets to decide when, with whom, and how much to share their private information.

City employees may not disclose information that may reveal an employee’s or customer’s transgender or gender non-conforming status to anyone without the individual’s permission.

Intentionally disclosing personal information relating to an employee’s or customer’s transgender status or the sex the person was assigned at birth, gender transition, or related medical history may constitute discriminatory harassment under the law and is a violation of this policy which may result in discipline up to and including termination.

Official Records: The City will change an official record to reflect a change in name or gender upon request from an employee or customer. Certain types of employee records, such as those relating to payroll and retirement accounts, may require a legal name change before the person’s name can be changed. Some records, however, such as email accounts or identification badges, can be changed to reflect the person’s preferred name without proof of legal name change. An employee should request changes through Human Resources.

Name and Pronoun Usage: It is important for employees to address individuals by the name and pronoun that corresponds to the individual’s gender identity or expression. A court-ordered name or gender change is not required. If you are

unsure of what pronoun an employee or customer might prefer, politely ask the individual how they would like to be addressed.

The intentional or persistent refusal to respect an employee's or customer's gender identity (for example, intentionally referring to an employee or customer by a name or pronoun that does not correspond to the individual's gender identity) or use of derogatory terms is a violation of this policy which may result in discipline up to and including termination.

Restroom Access: Employees and customers have the right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the individual's gender identity, regardless of the individual's sex assigned at birth. Transgender women, for example, will be allowed to use the women's restroom, and transgender men will be allowed to use the men's restroom. That decision is up to the transgender individual to determine the most and safest option for themselves.

Locker Room Access: Employees have the right to use the locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy regardless of reason, may request a reasonable alternative such as a private area.

Dress Code: Employees must comply with any existing dress codes or grooming standards and have the right to do so in a manner consistent with their gender identity or expression.

Sex-Specific Job Duties: In the rare circumstances where sex is a bona fide occupational qualification (BFOQ), employees should be classified and assigned in a manner consistent with their gender identity. Assignment of job duties or disqualification from a position on the basis of an individual's transgender status, related medical history, bodily autonomy, or non-conformity with gender stereotypes is prohibited.

Transitioning on the Job: Employees who transition on the job can expect the support of City management and staff. Upon request, Human Resources will work with employees individually to ensure a successful workplace transition.

Hiring Practices: Applicants may use their preferred name and self-identified gender on an application. Hiring practices will not require disclosure of an applicant's transgender status or sex assigned at birth or create adverse action based on failure to disclose this information. Inquiries about legal names or prior names used may only be made after a conditional offer is made and must be necessary for legitimate business reasons.

4. Expectations

The City wants every employee to know the City's expectations. This Personnel Policy is designed to inform employees of the City's expectations, the City's policies and procedures, and the Grievance Procedure.

Employees are expected to follow City policies and rules and respect the rights, property, and privacy of co-workers, residents, and businesses the City serves. Employees are expected to treat co-workers, Mayor and Council Members, vendors, colleagues, customers, and other contacts with respect and dignity. Employees are expected to conduct their job functions in a professional, businesslike fashion with minimal interference by other staff members or visitors. Employee attention to responsibilities and work products should be constant, consistent, efficient, and productive. Personal interference or distractions should be kept to a minimum.

The affairs of the City are important and are to be considered a confidential trust, as well as a responsibility. Employee attitude, ability, productivity, and a sense of responsibility are critical aspects of all job descriptions.

Employees of the City may deal with confidential and proprietary information. It is imperative that employees maintain the City's integrity and not discuss City business with people who should not be privy to the information. In some circumstances, City business should be revealed to other City employees on a need-to-know basis. If an employee has questions regarding confidential information, and to whom the information should be revealed, they should consult with the City Manager or designee, Human Resources, or with the City Attorney.

Likewise, employees may not use knowledge gained through their employment at the City to achieve personal gain for themselves or anyone else. Employees cannot participate as a City employee where they may have private financial interest, direct or indirect, or perform in some function requiring discretion on behalf of the City. Employees cannot disclose or use confidential information concerning property or City affairs to advance personal or private interest with respect to any contract or transaction that is or may be subject of official action of the City. Employees should familiarize themselves with the City's Ethics Policy.

5. Lawsuits Against the City of Whitefish

When an employee is approached by a legal process server, they should refer the server to the City Manager or their designee, or to the City Attorney. If the City Manager or City Attorney is not available, and the employee is required to accept service, it is the employee's responsibility to forward the information to either of the authorities listed as soon as possible without opening the documents.

No employee will discuss aspects of any potential or current lawsuit without first consulting with the City Manager or designee, or City Attorney. If an employee is approached for a press release or news quote about a lawsuit, they must refer all contacts to the City Manager or designee, or to the City Attorney.

6. New Employees

The City provides the opportunity for promotion through in-house hiring procedures. Most vacancies will be posted in-house for a minimum of five (5) working days prior to advertising outside the City. If the position is for a licensed professional, the vacancy may be posted simultaneously in-house and outside the City. In-house advertising does not infer preference. Nothing in this policy requires the hiring of an in-house applicant, and the City may advertise outside the City even if there are in-house applicants. For the purpose of recruitment, an in-house applicant is defined as an active City employee in a pay status, on FMLA, or on Worker's Compensation leave on the day the position announcement is distributed (in-house applicants do not include individuals in an unpaid leave of absence status).

New and rehired employees are required to complete an informal orientation and onboarding session with Human Resources. The employee will have the opportunity to complete necessary employment forms required by Federal and State law, as well as payroll and withholding information. Human Resources will explain in general terms the rules and expectations and provide an overview of the pay and benefit packages offered by the City. The employee will be provided copies of the Personnel Policy and other employment materials and is responsible for reading the policies, including understanding their employment classification. The employee will sign the Receipt and Acknowledgement form verifying they have received and are familiar with this Personnel Policy. Human Resources will place this form in each employee's Personnel File. This Personnel Policy replaces all previous personnel policy material adopted by the City Council and issued by Human Resources for the City.

Throughout the City's offices are bulletin boards where required notices of employment laws are posted. Information of general interest is posted regularly on bulletin boards, including in-house position announcements. Any employee who would like to post notices on the City bulletin boards should ask Human Resources or their supervisor for approval.

Unless otherwise specified by a Collective Bargaining Agreement or State law, all employees will serve a six-month probationary period. The probationary period allows time for the employee to learn the position as well as time for the supervisor to evaluate the employee's potential and performance. During the probationary period, the City reserves the right to terminate an employee with or without cause. If a probationary employee is approved for leave during the probation period, the probationary period will be suspended during the time off and will resume upon return from leave. On rare occasions, and with City Manager's approval, the length of a probationary period may be extended by the City for performance, training, disciplinary, or other reasons. Employees, with notification to their supervisor and department director, will receive written notice of an extension in their probationary period prior to the end of the original probationary period. The extension notice will contain reasons(s) for the extension. If, for example, an employee takes approved paid or unpaid leave during the probationary period, the probationary period may be extended by that length of time. A probationary period may not exceed 18 months, including the original six-month probationary period plus any periods of extension.

Unless the employee receives written notification that they have not satisfactorily completed the established probationary period on or before the end of the probationary period, the employee's classification will change from probationary to regular.

When an employee accepts a new position within the City, that employee is subject to a six (6) month probationary period for that new position.

During the probationary period, a supervisor will evaluate the employee's job performance. Employees will receive input about their job performance and are encouraged to share their comments, and ideas.

7. Employment of Relatives (Nepotism)

Employees will be appointed in a manner consistent with the Nepotism laws and definitions as outlined in Title 2, Part 2, Chapter 3, MCA.

8. Authority for Personnel Action

The City reserves the right to direct, hire, promote, transfer, assign, and retain employees. The City also reserves the right to supervise, discipline, and relieve employees from their duties for any reason determined sufficient by the City as well as the right to determine and change hours of work, shifts, and operational methods. The City has the sole discretion to change/abolish policies, practices, rules, and regulations.

Under Section 3.03 of the City Charter, the City Manager is directed to administer all City personnel actions.

9. Outside Employment

The position held with the City will be the primary position for regular full-time and part-time employees. If a City employee secures supplemental employment, the City requests that a supervisor, Department Director, or Human Resources be notified. Supplemental employment will not be considered an acceptable reason for poor job performance, absenteeism, tardiness, or refusal to work overtime as business demands may require. An employee may be subject to disciplinary action if supplemental employment interferes in any way with the employee's ability to satisfactorily complete City job duties. If supplemental employment interferes with City employment, an employee may be required to cease that supplemental employment or be terminated. Employees may not solicit, on behalf of, or promote any outside or private employment during their work shift.

10. Remote Employment

In some situations, subject to pre-approval by the City Manager, the City may hire employees or allow employees to work in different locations. Remote employment has unique responsibilities and advantages that should not be abused or misused. If a remote employee requests a unique work environment that is deemed unreasonable or creates a situation which the City determines is

not workable, the City may require that the employee work out of the appropriate City facility. If the employee cannot do this, the City reserves the right to take other actions as required in accordance with City policies. A written request for remote employment/work must be submitted to the Department Director. The Department Director will consult with Human Resources to determine eligibility, and if the remote employment or work fits within the role and function of the employee, the needs of the organization, and the availability of a suitable alternative worksite. The Department Director and Human Resources will make a recommendation to the City Manager for approval. The use and final approval of remote/telework is at the sole discretion of the City Manager.

11. Pay Plan

11.1 AUTHORITY TO ESTABLISH SALARIES AND WAGES

- A. All salary and wage provisions contained in these policies are subject to the City Council's final approval of the City's annual budget.
- B. The City Manager is responsible for the development, administration, and amendments, as required, of a uniform and equitable plan which will provide equal pay for equal work.

11.2 PAY PLAN

The pay plan consists of a salary and wage schedule establishing minimum and maximum rates of pay for all positions. The salary ranges will be directly linked to the position classification plan and will be determined with due regard for the following considerations:

- A. Ranges of pay for similar classifications;
- B. Cost of living factors; and
- C. Other benefits received by City employees.

11.3 PAY ADMINISTRATION

- A. Beginning Salary Rate. The minimum rate of pay in the salary and wage range for a position will normally be paid to any full-time employee upon their initial appointment to the position. Beginning rates of pay in excess of the minimum may be allowed to recruit persons with a higher level of skills or within a short labor supply market area. All beginning salaries and wages in excess of the minimum require the written approval of the City Manager.
- B. Annual Salary Adjustments. Each employee's salary and wages, along with the position's salary range, may be adjusted annually subject to Council appropriations.

- C. Probationary Period. A new employee's performance will be evaluated periodically throughout the probationary period by their supervisor or Department Director. Before the new employee's six-month anniversary date, a formal evaluation will be completed and submitted to Human Resources. Upon successful completion of this six (6) month probationary period, the employee will be granted a salary increase equal to one step in the range of the employee's position. The City may extend the probationary period because of the new employee's failure to complete satisfactorily the initial probationary period or if the employee takes paid or unpaid time off not normally allowed during probation.

11.4 RELATED PAY ACTIONS

The following personnel actions will affect the employee's pay status in the manner provided:

- A. Promotions. When an employee receives a promotion to a position in a higher salary range, the employee will receive a minimum five percent increase or the entrance rate for the new position, whichever is greater. While promotions may involve a promotion probationary period, there is no subsequent one step increase after successful completion of a probationary period as provided in 11.3.C above, as those increases are for new employees only. If an employee does not pass their promotion probationary period, they will be returned to their prior position.
- B. Transfer. When an employee is transferred to a new position in another classification which is the same pay range, the employee's rate of pay will remain the same. When the employee transfers to a new position with a higher or lower pay range the provisions governing promotion and demotion, as applicable, will rule.
- C. Demotion (Voluntary/Involuntary). When an incumbent employee accepts a voluntary or involuntary demotion, the employee will receive pay within the classification for the position (Range) and may retain the Step they are currently at, as determined by Human Resources and City Manager. This may result in a reduction in pay. Subsequent salary adjustments would be governed by policies of Pay Administration (11.3.B).
- D. Temporary Assignment. Any employee temporarily appointed to a vacancy in a higher pay range for twenty-four or more continuous working days will be compensated at the higher classification rate currently paid for that position. Such compensation generally will not result in more than a two-pay range increase at the assigned employee's current step. Prior written notice providing details of temporary assignment and duties the employee will be responsible for must be submitted to Human Resources and approved by the City Manager before higher classification pay will be authorized to the employee.

11.5 TIMESHEETS & PAYDAYS

Employees covered by the provisions of these policies will be paid on a bi-weekly basis on the Friday following the end of each bi-weekly pay period. If the payday falls on a holiday, payment will be made on the preceding regular workday. The City does not provide pay advances. The employee's supervisor, Human Resources or designee will distribute the paychecks to employees unless electronic transmission of payroll is utilized. If the employee desires to release their pay to another authorized person, they must notify Human Resources in writing, specifying who is authorized to receive their pay. By law, the City must keep accurate records of time worked by "non-exempt," or hourly paid employees. Time sheets for the pay period must be completed electronically by all employees and submitted to their supervisors when they are requested or when payroll needs to be processed. In the event an employee is unavailable to complete and submit their time sheet, they may complete the time sheet in advance or call the supervisor and relay the information. Employees will be required to follow up any telephone communication with written documentation (email or written memo). Time sheets must include the employee's name and hours worked on a daily basis, holiday time, sick leave used, vacation leave used, leave without pay, etc. Time worked will be reflected in fifteen-minute increments. The employee must submit electronically the time sheet(s) attesting that all time worked and leave used is reported for the period. The employee's supervisor, and/or the Department Director or designee, will review to ensure that timesheets are filled out in accordance with the personnel policy or respective collective bargaining agreement and electronically approve the time sheets.

Inaccurate time reporting is cause for disciplinary action. Employees will not alter another person's time record or influence anyone else to alter a time record. Doing so is cause for disciplinary action. Changes requested after an employee has submitted their timesheet and received Department Director approval must be submitted in writing by the employee and approved by the Department Director and Human Resources.

Every effort is made to avoid errors on paychecks. Employees who believe an error has been made on their paycheck must tell their supervisor immediately. Human Resources and Finance will work with the employee and the supervisor to research the problem and make any necessary corrections once payroll is completed. For errors that do not involve pay, such as time charged against an employee's compensatory accrual when the employee requested to use vacation leave, employees must notify their supervisor, Human Resources, and/or Finance, by the following pay period for adjustments to be made. Exceptions will be considered on a case-by-case basis and must be approved by the Department Director, Finance, and Human Resources.

When an employee is separated from employment, all of the unpaid wages of the employee are due and payable on the employee's next regular payday for the pay period or within 15 days from the separation, whichever occurs first.

11.6 PAYROLL DEDUCTIONS

Currently, the following deductions are mandatory, and made on the basis indicated:

Federal and State Income Tax Withholding - The amount of taxes deducted depends on an employee's earnings and W-4 form. An employee whose number of dependents or exemptions changes should complete and submit a new W-4 Form to Human Resources, as changes affect withholdings. Employees receive a W-2 Form annually indicating the tax amount withheld.

Social Security Tax - Social Security deductions are made pursuant to Federal laws and regulations. Exclusions may apply for Police and Fire employees covered under MPORS and FURS, respectively.

Retirement Systems:

- **Public Employees' Retirement System (PERS⁵)** - Membership is mandatory for City employees not covered by another state retirement plan, working an excess of 960 hours per fiscal year, and optional for those working less than 960 hours per fiscal year. Working retirees have specific rules applicable to them, contact Human Resources for details. PERS is a complex system. All new Firefighters are encouraged to review their PERS handbook for deduction details or contact Human Resources for details.
- **Firefighters' Unified Retirement System (FURS)** - Membership in FURS is mandatory for all City firefighters. FURS is a complex system. All new Firefighters are encouraged to review their FURS handbook for deduction details or contact Human Resources for details.
- **Municipal Police Officers' Retirement System (MPORS)** – Membership in MPORS is mandatory for all City police officers. MPORS is a complex system. All new officers are encouraged to review their MPORS handbook for deduction detail, or contact Human Resources, for details.

Medical Insurances - Mandatory (unless employee provides proof of other coverage). New employees will receive medical/dental/vision insurance beginning on the first day of the month following their first day of employment. If their first day of employment is also the first day of the month, the employee will receive those insurances beginning the following month. Depending upon the employees start date, the insurance premium paid by the employee may be doubled for a pay period to allow for a start date at the beginning of the month following the date of hire.

⁵ The City Council opted not to contribute employer contributions for PERS buy-back of pension benefits pursuant to Resolution No. 06-70.

Court Ordered Payments - Employees will be notified when the City has been directed to process any other mandatory deductions from their paycheck, such as court-ordered garnishments.

Currently, the following deductions are voluntary (subject to change), and made on the basis indicated:

Union Dues – Optional and based on the employee’s position.

Local Credit Unions - These optional deductions must be submitted in writing to Human Resources using a Voluntary Payroll Deduction form.

Cafeteria Plan Insurances - These optional deductions must be submitted in writing to Human Resources using a Voluntary Payroll Deduction form.

The Wave Dues⁶ - These optional deductions must be submitted in writing to Human Resources using a Voluntary Payroll Deduction form.

As amended January 17, 2017, by Resolution No. 17-05, the City does not provide cash payments for employees who waive medical insurance coverage. Existing employees who have this benefit prior to January 17, 2017, will keep this benefit until their coverage status changes, or employment ends.

11.7 COMPENSATION

Every employee covered by the provisions of these policies will receive a salary or stated compensation determined in accordance with the pay plan. The rates of pay set forth in the pay plan are for full-time employment and represent the annual compensation except as otherwise provided.

A. Overtime Compensation. Employees are expected to perform overtime as needed as a condition of employment. Employees need advance approval from their supervisor for scheduled and unscheduled overtime. Except as provided in collective bargaining agreements, and for exempt positions, employees will be compensated for overtime hours worked (see definition of "hours worked"). Overtime compensation for non-exempt employees may be in cash or in compensatory time off as requested by employee. Any hours worked in excess of forty hours in one week constitutes overtime and will be paid at one and one-half times the employee's regular rate of pay. All overtime will be paid in fifteen-minute increments.

- 1) Compensatory time off for non-exempt employees will be accrued at the rate of one and one-half times the hours of overtime worked. Compensatory time for non-exempt employees may be accrued to a maximum of 60 hours.

⁶ Subject to Fitness Club policy.

Once 60 compensatory hours have been accrued, the employee will be paid overtime pay rather than accruing compensatory time.

- 2) Overtime or compensatory time will be subject to the request or approval of the supervisor, Department Director, or the City Manager in advance.
- B. Termination Sick Leave Pay. Any employee who terminates employment with the City and has passed the 90-day qualifying period is entitled to a lump sum payment equal to one-fourth of the employee's accumulated sick leave hours at the employee's regular rate of pay at the time of termination. Abuse of sick leave may result in disciplinary action up to and including termination with forfeiture of cash compensation pay-out for unused leave⁷.
- C. Termination Vacation Pay. When an employee terminates employment for a reason not reflecting discredit on the employee⁸ with the City and has passed the six-month probationary period, all accrued vacation leave will be paid and included in the final paycheck. Computation of the payout of accrued vacation will be on the basis of the employee's regular rate of pay at the time of termination.
- D. Termination Personal Time. When an employee terminates employment for a reason not reflecting discredit on the employee with the City and has passed the six-month probationary period, all accrued personal time will be paid and included in the final paycheck. Computation of the payout of accrued personal time will be on the basis of the employee's regular rate of pay at the time of termination.
- E. Termination Compensatory Time. When an employee terminates employment with the City, all accrued compensatory time will be paid and included in the final paycheck. Computation of the payout of accrued compensatory time will be on the basis of the employee's regular rate of pay at the time of termination.

Implementation of vacancy savings (holding the position vacant) to offset termination pay is at the discretion of the City Manager.

- F. Alternate Work Schedule. When in the best interests of all concerned, and with the prior written approval of the City Manager, an employee or a department may be allowed to arrange their own work schedule and hours of work. Such Alternate Work Schedule must comply with the average forty-hour workweek. No employee who works an alternate work schedule will be entitled to a shift differential payment. An alternate work schedule will be documented and reviewed by the supervisor, Department Director, and Human Resources, with final approval received from the City Manager prior to the change in schedule. For a temporary alternate work schedule, defined as less than twelve continuous months, a Work Week Waiver form will be completed and approved as noted

⁷ Section 2-18-618 (8), MCA.

⁸ Section 2-18-617 (2), MCA.

above, prior to the change being made.

- G. Uniform Allowance. Clothing allowances may be provided for in collective bargaining agreements and in the annual budget process. As deemed necessary by the supervisor, non-union employees may be eligible for department specific uniforms as budgeted for and approved through the annual budgetary process. Accordingly, uniforms purchased by the City will remain the property of the City, and in the event an employee leaves City service, all provided uniforms will be returned and received before final salary payment is made.

12. Classification

The classification plan is comprised of a schematic list of classes of positions supported by written specifications setting forth the duties and responsibilities of each class and the qualifications necessary for appointment to a position of that class.

12.1 PURPOSE. The purpose of the classification plan is to:

- A. Provide equal pay for equal work;
- B. Establish qualification standards for recruiting and testing;
- C. Provide appointing authorities with a means of analyzing work distribution, area of responsibility, lines of authority, and other relationships between positions;
- D. Assist appointing authorities in determining budget requirements;
- E. Provide a basis for developing standards of work performance;
- F. Establish lines of promotion;
- G. Indicate training needs; and
- H. Provide uniform titles for positions.

12.2 CLASS

A class will be comprised of one or more positions that are so similar in the basic character of their duties and responsibilities that the same pay scale, title, and qualification requirements can be applied and the position can be fairly and equitably treated under like conditions for all other personnel purposes. Similar qualification requirements will be applied to all positions in a class regardless of the department in which the positions are located.

12.3 CLASS SPECIFICATION

The class specification will state the characteristic duties, responsibilities, and qualification requirements which distinguish a given class from other classes. The specification will be descriptive, but not restrictive; that is, the class specification will describe the more typical types of work which may be allocated to a given class but will not be construed to restrict the assignment of other duties related to the class. Human Resources maintains job descriptions for the City. Departments should conduct periodic reviews of job descriptions to ensure any changes in the duties, and responsibilities, of each position are accurately reflected, particularly when there is a vacancy in the position. Changes in the duties and responsibilities of a position should be updated in the job description. Job descriptions are available from Human Resources.

12.4 ADMINISTRATION OF CLASSIFICATION PLAN

The classification plan will be established and maintained by the City Manager and Human Resources.

- A. New positions. When a new position is created, the Department Director will send Human Resources a request for classification of the position with a description of the applicable duties and responsibilities. After analysis and evaluation of duties and responsibilities, the City Manager and Human Resources will allocate the position to the proper class, without regard to personal characteristics, abilities, or qualifications of the applicant.
- B. Change of Classification. When the assignment of an employee has changed substantially as to kind, and/or level of work, the Department Director or the supervisor may initiate a request for a change of classification. This should be submitted in writing to Human Resources. If the City Manager and Human Resources determine that the position has changed sufficiently, the reclassification will be considered a change in position, and rules and pay policies applicable to a position change will apply.

13. Performance Appraisals and Job Evaluations

Employee performance evaluations are provided on a regular basis, at least annually, to non-probationary employees. The evaluations report progress, allow correction of any deficiencies, recognize employee strengths and special abilities, and provide an opportunity to discuss areas that need improvement. Appraisals and evaluations should provide an ongoing performance record that may be used as a supportive document for personnel actions such as promotions or demotions. They also provide employees an opportunity to discuss personal goals, City goals, and means for improvement. Evaluations provide an opportune time to formulate or update employees' job descriptions.

The employee's immediate supervisor will complete the evaluation using the employee's job description and the City personnel policy as the appraisal basis. In the case of a long-term absence

of the immediate supervisor and Department Director, Human Resources or the City Manager will complete the employee evaluation. The employee is encouraged to complete a preliminary self-appraisal to prepare for the evaluation meeting. The employee and the evaluator will schedule a conference to discuss the employee's job performance and the job description. The conference will provide the opportunity for the employee to work with their supervisor to develop the employee's understanding of the position, annual goals, training needs, budget restraints/needs, and improvement plan.

The employee and employee's supervisor, or individual assigned to complete the evaluation, will sign and date the evaluation form. If the employee refuses to sign the evaluation form, documentation of their refusal will be added to their evaluation. The employee's signature will indicate that the employee has reviewed the evaluation with their supervisor, or other individual assigned to complete the evaluation, and understands the comments contained within the evaluation. If the employee does not agree on an evaluation result, the employee may respond in writing within 10 working days and attach the statement to the performance evaluation form.

14. Mail

Employees must not use the City's address as a personal mailing address and must not use City postage, or letterhead, for personal correspondence. Employees may not use departmental mail codes or City purchased postage to send personal mail. If an employee does so, they will be subject to disciplinary action up to and including termination.

Department Directors have the discretion to set policy in each department for the procedure of opening mail. Generally, the City considers any piece of mail addressed to any employee as City property and public record. Staff assigned to open and/or route mail in each department may open general mail so it may be date-stamped. Letters marked confidential should not be opened but given directly to the addressee or the Department Director.

15. Telephone

City telephones and City provided cell phones are to be used for City business. Personal telephone calls should be kept at a minimum and should not interfere with the employee's work. Unless traveling, long distance charges must be collect to the call receiver or billed to the employee's personal phone. Personal charges billed to the City will be the responsibility of the employee. Employees violating this policy may be subject to disciplinary action. The City expressly reserves the right to monitor employee use of City provided telephones and cell phones. Employees should be aware that business and personal messages or text messages sent, received, and/or present on City provided cell phones may be subject to the Montana Public Records Act.

16. Electronic Communications Device Usage

Use of the City's electronic communications devices (ECD) systems and/or tools, such as computers or cell phones, should be used for activities that fall within the course and scope of the employee's job duties. Any use of City ECD systems for outside employment endeavors is strictly prohibited. Personal ECD use that is deemed excessive or inappropriate by the City or ECD use

that is illegal is prohibited and may result disciplinary action up to and including termination. The City expressly reserves the right to monitor employee use of City provided ECD.

Email

Employees are responsible for the content and dissemination of their messages. This responsibility includes ensuring that the employee's messages are accurate, courteous, professional, and that the messages do not violate another's right to privacy or confidentiality. If an employee has a question pertaining to the content of an email, the employee should consult with their supervisor. Email communication that is deemed unprofessional, outside the scope of the employee's job duties, or violates any of the personnel policies, or is considered illegal is prohibited and may result in disciplinary action up to and including termination. Employees should be aware that messages sent, received and/or present on City email accounts may be subject to the Montana Public Records Act.

Security

The City owns the contents of all files stored on its systems and all messages transmitted over its systems and reserves the right to access them. E-mails may be accessed and monitored in the normal course of business by system administrators, supervisors, and support staff. The City expressly reserves the right to monitor employees' use of City equipment.

17. Theft

The City will not tolerate theft of any kind. Property theft is considered the unauthorized use of City services or facilities or the taking of any City property for personal use. Theft or prohibited use of City property may result in disciplinary action up to and including termination.

18. Personnel Files

The City maintains records on every employee related to their employment with the City. The employee's personnel file may contain information such as employment application/resume or cover letter, performance evaluations, training records, commendations and awards, disciplinary records, and resignation/termination records. Such information may be obtained from the employee or from others. Any information obtained for EEOC compliance (Form EEO-4) and/or any medical information will be kept in separate, confidential files and accessed only on a need-to-know basis as authorized by Human Resources and/or the City Manager if it does not violate any laws, regulations, or policies set forth in this policy.

Personnel files are confidential and only accessible to others on a need-to-know basis for personnel action. Personnel files are kept in Human Resources, and upon request to Human Resources, employees may inspect and make copies of their personnel records with a Human Resources representative or City Manager present. Employees should contact Human Resources to establish a convenient review time.

The employee must notify Human Resources and their supervisor in writing if their address or phone number change, or of changes in marital and/or dependent status which may require changes to income tax and insurance records. Coverage and/or benefits that employees and their families may receive could be negatively affected if the information in their files is not accurate.

It is in the employee's best interest and their responsibility to ensure their personnel files include information about completion of licenses, certification, educational or training courses, and areas of interest and skills.

19. Alcohol-Free and Drug-Free Workplace

Purpose and Intent

In compliance with the Drug-Free Workplace Act of 1988, (41 USC Sec. 701, *et seq.*), the City is committed to providing an alcohol-free and drug-free workplace. Employees and the City have a mutual obligation to ensure a safe and healthy work environment. This policy is instituted to ensure that the workplace is free of employees whose job performance may be impaired by the use of controlled substances and/or alcohol. When an employee has placed themselves in a situation where their ability to perform their job is impaired by drugs or alcohol, it is the responsibility of the City to remove such employee from the work environment to prevent endangerment of the employee, fellow employees, and/or the public.

Prohibited Behavior

The following is prohibited by the City:

- A. The use of alcohol on City property, while operating a City vehicle, or while conducting City business.
- B. The possession or use of a controlled substance, as defined in 49 CFR Part 40, on City property, while operating a City vehicle, or while conducting City business except when prescribed by a doctor, AND the doctor certifies that the substance will not adversely affect the employee's ability to safely and effectively perform their duties.
- C. The sale, transfer, or purchase of a controlled substance, as defined in 49 CFR Part 40, on City property, while operating a City vehicle, or while conducting City business.
- D. Refusal to cooperate in an investigation related to an employee's use of controlled substances or alcohol while on the job.
- E. Failure to notify the City Manager or designee in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

An employee who engages in any of the prohibited behavior may be subject disciplinary action up to and including immediate termination.

Procedure

- A. In the event there is cause to believe an employee may be impaired on the job by a controlled substance or alcohol, the employee's supervisor will interview the employee. The supervisor will directly observe the employee's behavior and document the behavior. Indications of impaired behavior include but are not limited to the following: staggering or irregular gait, the odor of alcohol on the breath, slurred speech, dilated or constricted pupils, inattentiveness, listlessness, hyperactivity, performance problems, illogical speech and thought processes, poor judgment, or unusual or abnormal behavior. When possible, a second managerial employee will also observe the employee to verify there is cause to believe the employee may be impaired on the job.
- B. If the determination is made that the employee is impaired on the job, the employee will be immediately relieved of their duties. An investigation will be performed which may result in disciplinary action up to and including termination.
- C. Each employee engaged in the performance of a grant from any federal agency will be given a copy of this policy and be notified that, as a condition of employment under the grant, the employee must abide by this policy and notify the City in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction. The City will notify the federal agency involved, in writing, within ten (10) calendar days after receiving notice from an employee or otherwise receiving actual notice of such conviction. The City will, within thirty (30) calendar days of receiving notice from any employee who is so convicted:
 - 1) Take appropriate personnel action against said employee up to and including termination; or
 - 2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by federal, state, or local health law enforcement, or other appropriate agency.
- D. An employee who is the subject of an investigation related to the use of alcohol or controlled substances may have a representative or another employee present during any investigative procedures undertaken by the City.
- E. Disciplinary actions taken by the City under this policy are subject to the Grievance Procedure.

Education

The City Manager will carry out educational programs designed to prevent, and deter, misuse and abuse of alcohol and controlled substances, promote better recognition of the problems of misuse and abuse of alcohol and controlled substances, and assist in the education and training of Department Directors.

Such educational programs will be an ongoing awareness program designed to inform employees about:

- A. The dangers of the use of alcohol and controlled substances in the workplace;
- B. The City's policy of maintaining an alcohol and drug-free workplace;
- C. Any available counseling, rehabilitation, and employee assistance programs; and
- D. The penalties that may be imposed upon employees for violations of this policy.

Drug and Alcohol Testing for Employees with a CDL

Policy and Procedure

The Federal Highway Administration (FHWA) of the U.S. Department of Transportation has enacted 49 CFR Part 382, 391, 392 and 395, as amended, that mandate urine-controlled substance testing and alcohol testing for persons who are subject to Commercial Driver's License (CDL) requirements and perform safety sensitive functions. In 1996, the City adopted the Montana Department of Transportation's alcohol and drug testing policy through Resolution No. 96-1-A. Due to changes in the federal regulations, the City repealed Resolution No. 96-1-A, and adopted the following drug and alcohol testing policy for Employees with a Commercial Driver's License. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of alcohol and controlled substances.

The City will comply with the provisions of 49 CFR Part 40 in administering alcohol and controlled substances tests. The City may use a C/TPA to administer any of the tests mandated by this policy. The City will test for the following controlled substances:

- A. Marijuana metabolites.
- B. Cocaine metabolites.
- C. Amphetamines.
- D. Opiate metabolites.
- E. Phencyclidine (PCP).

Applicability

This policy applies to all employees that are subject to CDL requirements and perform safety-sensitive functions ("Covered Employees"). It applies to on-duty time, as well as off-site breaks and lunch periods when an employee is scheduled to return to work.

Definitions

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol, in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test under this part.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.

Commercial motor vehicle means a motor vehicle, or combination of motor vehicles, used in commerce to transport passengers or property if the vehicle:

- A. Has a gross combination weight rating, or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating, or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- B. Has a gross vehicle weight rating, or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- C. Is designed to transport 16 or more passengers, including the driver; or
- D. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b),) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers.

Controlled substances means:

- A. Marijuana metabolites.
- B. Cocaine metabolites.
- C. Amphetamines.

- D. Opiate metabolites.
- E. Phencyclidine (PCP).

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident, in its usual manner, in daylight after simple repairs.

- A. Inclusions. Damage to motor vehicles that could have been driven but would have been further damaged if so driven.
- B. Exclusions.
 - 1) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - 2) Tire disablement without other damage even if no spare tire is available.
 - 3) Headlight or taillight damage.
 - 4) Damage to turn signals, horn, or windshield wipers which make them inoperative.

Driver means any person who operates a commercial motor vehicle. This includes but is not limited to: Full time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and; independent owner-operator contractors.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Performing (a safety-sensitive function) means a driver performing a safety-sensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform, any safety-sensitive functions.

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

- A. Fails to appear for any test (except a pre-employment test) within a reasonable time as determined by the City, after being directed to do so by the City. This includes the failure of a driver to appear for a test when called by a C/TPA;
- B. Fails to remain at the testing site until the testing process is complete. Provided, that driver who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
- C. Fails to provide a urine specimen for any controlled substance test required by this policy. Provided, that a driver who does not provide a urine specimen because they

have left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;

- D. In the case of a directly observed or monitored collection in a controlled substance test, fails to permit the observation or monitoring of the driver's provision of a specimen;
- E. Fails to provide a sufficient amount of urine when directed, and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure;
- F. Fails or declines to take a second test the City or collector has directed the driver to take;
- G. Fails to undergo a medical examination or evaluation as directed by the Medical Review Office, as part of the verification process, or as directed by the Designated Employer Representative. In the case of a pre-employment-controlled substance test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- H. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector or behave in a confrontational way that disrupts the collection process); or
- I. Is reported by the Medical Review Officer as having a verified adulterated or substituted test result.

Safety-sensitive function means all time from the time a driver begins to work, or is required to be in readiness to work, until the time they are relieved from work, and all responsibility for performing work. Safety-sensitive functions include:

- A. All time at City offices, or other City property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- B. All time 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;
- 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.

Prohibitions

The City prohibits the following:

- A. No driver will report for duty, or remain on duty, requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- B. No driver will use alcohol while performing safety-sensitive functions.
- C. No driver will perform safety-sensitive functions within four hours after using alcohol.
- D. No driver required to take a post-accident alcohol test will use alcohol for eight hours following the accident or until they undergo a post-accident alcohol test, whichever occurs first.
- E. No driver will refuse to submit to a pre-employment-controlled substance test, a post-accident alcohol or controlled substance test required, a random alcohol or controlled substances test required, a reasonable suspicion alcohol or controlled substance test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substance test.
- F. No driver will report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I.
- G. No driver will report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- H. No driver will report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances.

Testing

The City performs the following testing:

- A. Pre-employment testing.

- 1) **Controlled Substances.** Prior to the first time a driver performs safety-sensitive functions for an employer, the driver will undergo testing for controlled substances as a condition prior to being used.
- 2) **Alcohol.** The City may conduct pre-employment alcohol testing. If the City chooses to conduct pre-employment alcohol testing, it will comply with the following requirements:
 - a) The City will conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every Covered Employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
 - b) The City will treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some Covered Employees and not others).
 - c) The City will conduct the pre-employment tests after making a contingent offer of employment or transfer subject to the employee passing the pre-employment alcohol test.
 - d) The City will conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40.
 - e) The City will not allow a Covered Employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

B. Post-Accident Testing.

- 1) **Alcohol.** As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, the City will test for alcohol for each of its surviving drivers:
 - a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

- i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
 - 2) Controlled Substances. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, the City will test for controlled substances for each of its surviving drivers:
 - a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b) Who receives a citation within 32 hours of the occurrence under State or local law, for a moving traffic violation arising from the accident, if the accident involved:
 - i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
 - 3) Timing. The City will test the employee within two (2) hours of the accident. If testing cannot be accomplished, the City will document the reasons for non-testing. The City will cease attempts to test after eight (8) hours for alcohol testing and thirty-two (32) hours for controlled substance testing.
 - 4) A driver who is subject to post-accident testing will remain readily available for such testing or may be deemed by the City to have refused to submit to testing. The City will provide drivers with necessary post-accident information and procedures and instructions prior to the driver operating a commercial motor vehicle so that drivers will be able to comply with the requirements of this section.
- C. Random Testing.
 - 1) The minimum annual percentage rates for alcohol and controlled substances testing will be that set by the FMCSA Administrator.

- 2) Random alcohol and controlled substance tests will be unannounced and spread reasonably throughout the calendar year.
- 3) The City will require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.
- 4) A driver will only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

D. Reasonable Suspicion Testing.

- 1) Alcohol.
 - a) The City will require a driver to submit to an alcohol test when the City has reasonable suspicion to believe that the driver has violated this policy's prohibitions concerning alcohol.
 - b) The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
 - c) The required observations for alcohol testing will be made by a supervisor or City official who has received at least 60 minutes of training in alcohol misuse and 60 minutes of training on controlled substance use.
 - d) Alcohol testing will be done if the observations required by paragraph A of this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with this policy. The City will direct the driver to undergo reasonable suspicion testing only while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
 - e) If a reasonable suspicion alcohol test is not administered within two hours following the determination under paragraph A of this section, the City will prepare and maintain on file, a record stating the

reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph A of this section, the City will cease attempts to administer an alcohol test and will state in the record the reasons for not administering the test.

- f) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver will report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor will the City permit the driver to perform or continue to perform, safety-sensitive functions, until:
 - i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
 - ii) Twenty-four hours have elapsed following the determination under paragraph A of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions concerning the use of alcohol.
- g) The City will make a written record of the observations leading to an alcohol reasonable suspicion test and such record will be signed by the supervisor or City official who made the observations within 24 hours of the observed behavior or before the results of the alcohol tests are released, whichever is earlier.

2) Controlled Substances.

- a) The City will require a driver to submit to a controlled substances test when the City has reasonable suspicion to believe that the driver has violated this policy's prohibitions concerning controlled substances.
- b) The City's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- c) The required observations for controlled substances testing will be made by a supervisor or City official who has received at least 60 minutes of training on alcohol misuse and 60 minutes of training on controlled substance use.

- d) The City will make a written record of the observations leading to a controlled substances reasonable suspicion test and such record will be signed by the supervisor or City official who made the observations within 24 hours of the observed behavior or before the results of the controlled substances tests are released, whichever is earlier.
- E. Return-to-Duty and Follow Up Testing.
- 1) A driver who has violated this alcohol and controlled substances policy may not perform any safety-sensitive duties for the City until the driver has completed a Substance Abuse Professional evaluation, referral, and education/treatment process. Provided, however, that the City has no duty to provide a Substance Abuse Professional evaluation, or any subsequent recommended education, or treatment for a driver who has violated this policy.
 - 2) If the City determines a driver who has violated this alcohol and controlled substances policy may return to the performance of safety-sensitive duties, the driver is required to take a return-to-duty test. The return-to duty test cannot occur until the Substance Abuse Professional has determined the driver has successfully complied with the prescribed education/treatment.
 - 3) If the City determines a driver who has violated this alcohol and controlled substances policy may return to the performance of safety-sensitive functions, the driver will be subject to unannounced follow up testing as directed by the Substance Abuse Professional which, at the minimum, will occur six times in the first 12 months of safety-sensitive duty following the driver's return to safety-sensitive functions.

Consequences for Violations of the Policy

- A. Removal from safety sensitive functions.
- 1) The City will remove a driver from performing safety-sensitive functions, including driving a commercial motor vehicle, if the City determines the driver has violated this policy.
 - 2) The City will not allow a driver who has engaged in conduct prohibited by this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has complied with any education/treatment prescribed by a Substance Abuse Professional and passed a return-to-duty test.

- 3) The City will not allow any driver who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, to perform, or continue to perform, safety-sensitive functions for the City, including driving a commercial motor vehicle, nor will the City permit the driver to perform, or continue to perform, safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the alcohol test.
- B. Discipline. Violation of this policy may result in discipline up to and including termination.
- C. An employee who violates this policy may be subject to criminal penalties under Federal, State, and Local law.

Education and Training

- A. Controlled substance use, and alcohol misuse, can have a serious impact on everyone. Either can negatively impact your health, work, personal life, and the lives of others. The following information should assist you in identifying individuals at risk and establishing a track to recovery either for yourself or for someone you know.

Effects of drug and alcohol on a person's health, work, and personal life.

The following represent some of the potential effects that controlled substance use, and alcohol misuse, may have on the user:

Workplace

- May cause the employee to feel capable of handling tasks that are too much or too dangerous
- May cause lateness and absenteeism, increasing the workload of others
- May cause crime on the job, including theft of City and personal property
- May cause major errors in the work performed, risking harm to the employee, coworkers, and customers

Health

- Neurological problems, including dementia, anxiety, and suicide
- Cardiovascular problems, include hypertension
- Increased cancer risk
- Liver diseases, including alcoholic hepatitis, and cirrhosis
- Sexual dysfunction

Personal life

- Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love
- If drinking affects your work life, it could lead to job loss, and all the financial problems that would follow

Signs and Symptoms of a drug and/or alcohol problem

Any one or more of the following signs may indicate a controlled substance, and/or alcohol, problem:

- Appears fearful, anxious, or paranoid for no reason
- Blackouts or the inability to remember what has happened
- Cold, sweaty palms; shaking hands
- Lack of motivation; appears lethargic or "spaced out"
- Pattern of absenteeism with vague excuses
- Red, watery eyes; pupils larger or smaller than usual; blank stare
- Regular (or daily) use or consumption
- Secretive or suspicious behavior
- Sudden mood swings, irritability, or angry outbursts
- Unexplained need for money; stealing money or items

Intervening when a drug or alcohol problem is suspected

There are several good reasons why employees should be concerned if any of their coworkers are using drugs or alcohol on the job:

- The employee, and their coworkers' health and safety, may be at risk.
- Misuse by one employee may negatively impact the income of another.
- Creates a negative work environment.

No matter what the employee's position is in the City, there are things that can be done to ensure that controlled substance use, and alcohol misuse, on the job never becomes a problem at the City. Acceptance of any misuse puts the employee, the City, and the public at risk.

Accordingly, the City requests that any signs, or symptoms, of controlled substance use, or alcohol misuse, be reported to the employee's immediate supervisor. Alternatively, employees may report any signs or symptoms, to Human Resources or the City Manager.

- B. The City may provide additional educational materials regarding controlled substance use and alcohol abuse as needed.
- C. The City will ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.
- D. The City will provide written notice to representatives of employee organizations of the availability of this information.
- E. The City will ensure that each driver is required to sign a statement certifying that they have received a copy of these materials described in this section. The City will maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

Confidentiality

- A. The City will retain records of its alcohol misuse, and controlled substances use, prevention programs as required by 40 CFR 382.401.
- B. Except as required by law, or set forth below, the City will not release driver information that it maintains except:
 - 1) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to their alcohol or controlled substances tests.
 - 2) The City will permit access to its records to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the City or any of its drivers.
 - 3) The City will disclose information related to its administration of post-accident alcohol or controlled substance test administered following the accident under investigation when requested by the National Transportation Safety Board as part of an accident investigation.
 - 4) The City will make records available to a subsequent employer upon receipt of a written request from a driver.
 - 5) The City may disclose information pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding instituted by or on behalf of the individual and arising from a positive alcohol test and/or controlled substance test, or a refusal to test (including, but not limited to, adulterated, or substituted test results).

- 6) The City may disclose information in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the controlled substance or alcohol test information sought is relevant to the case and issues an order directing the City to produce the information.

20. Harassment

It is the policy of the City that harassment will not be tolerated. Employees are expected to act in a professional, cooperative, and respectful manner at all times. The City strictly enforces State and Federal anti-discrimination laws that prohibit sexual harassment.

"Sexual harassment" is unwelcome conduct that is sufficiently persistent or offensive to unreasonably interfere with an employee's job performance or create an intimidating, hostile, or offensive working environment. Sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. The following actions are prohibited:

- Explicitly or implicitly making submission to such conduct a term or condition of employment.
- Using submission to, or rejection of, such conduct by an individual as the basis for employment decisions affecting the individual.
- Such conduct that has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment includes **Verbal Harassment** (sexually explicit jokes, comments, innuendoes, etc.), **Physical Harassment** (unwelcome patting, hugging, pinching, grabbing, assault, etc.), **Power Plays** (using position of authority to coerce sexual favors or sexually harassing conduct), or **Non-verbal/Mental Harassment** (sexually explicit posters, unwelcome repeated requests for dates, gesturing, etc.).

Any employee who perceives a conversation or event as harassment, whether involved or merely observed, should explain to the offender in a calm but firm manner that the action is perceived as inappropriate and that the employee wishes the behavior to stop. If the harassment continues or if the employee is unable to or uncomfortable with addressing the offender directly, the employee should report the activity to the employee's supervisor, the City Manager or designee, or in the event these individuals are involved, to the Mayor. The City Manager or designee, Human Resources, or a designated Elected Official will promptly investigate the harassment allegation with due regard for confidentiality. The results of the investigation and the nature of the disciplinary action, if any, will be communicated to the complainant and the offender.

If the complainant or the offender believes the findings were incorrect or the disciplinary action is inappropriate, they must appeal the decision through the Grievance Procedure. The City will not tolerate retaliation against an employee who makes a good faith report of alleged sexual

harassment or participates in a sexual harassment investigation. A follow-up review will be completed within 6 months after harassment allegations have been made to ensure the sexual harassment has discontinued and all parties involved are not subjected to retaliatory behavior.

21. Resignation/Termination

Employees who wish to voluntarily resign from the City are requested to give a minimum of two weeks written notice. When an employee is separated from employment, all the employee's unpaid wages are due and payable on the employee's next regular payday for the pay period or within 15 calendar days from the separation, whichever occurs first.

Depending on the circumstances surrounding the resignation, employees who resign from the City may be eligible for re-employment. Former employees will be required to complete an application or resume and to proceed through the same hiring procedure as other applicants. A former employee who is re-hired by the City will be considered a new employee and required to complete the probationary period. The employee's date of service will be the date of the subsequent hiring. Participation in the retirement system will be made in accordance with the rules and regulations of the retirement plan, as well as all applicable federal and state laws.

The City Manager or designee has the authority to determine if workload, funding, or other business factors require terminations via layoff, or reductions-in-force (RIF). Whenever possible, employees will be provided at least two (2) weeks advance notification before the layoff or RIF. The insurance company and Human Resources will work to ensure that relevant benefits information is forwarded to the employee at the last known address. Employees must keep the City informed of the address, and telephone number where they can be contacted in the event of a recall. If the City is unable to contact an employee within seven (7) days of the recall, the City will have no further obligation to recall that employee. The City has no obligation to recall the employee if the employee has been on a continual layoff for a period of one (1) year.

Employees terminated by the City will be issued a letter stating the reason for and the effective date of the termination. Probationary employees may be discharged for any reason that the City deems appropriate. The City will follow the procedure outlined in the Employee Discipline section to terminate non-probationary employees. An employee terminated for cause does not retain their job or benefits pending any grievance appeal, but such salary and benefits may be restored retroactively if the employee's appeal is successful.

22. Health and Safety

The City has a safety program which complies with the Montana Safety Culture Act. Relevant safety regulations are addressed by measures including, but not limited to, delegating safety responsibilities, establishing procedures, providing training, inspecting workplaces, and providing/requiring the use of safety equipment.

Safety is every employee's responsibility. If an employee notices a potential hazard, the employee should alleviate the hazard if the employee is capable and qualified or the employee should promptly refer the problem to a supervisor, Department Director, Human Resources, or City

Manager or designee. Employees must use safe driving habits, wear seat belts, and observe laws regarding electronic devices while traveling in City vehicles. Employees will not operate or use equipment if they are not authorized or do not have the appropriate licensure.

If an employee sustains an injury while on the job, the employee must notify their supervisor, Human Resources, and/or the City Manager or designee as soon as possible after the injury occurred, preferably prior to leaving work for the day. As soon as possible following the injury, an Incident/Accident form and appropriate Worker's Compensation forms must be completed and submitted to Human Resources. The incident must be documented in writing by the injured employee and/or witnesses. The City maintains Workers' Compensation coverage pursuant to the provisions of the Montana Workers' Compensation Act.

The supervisor, Department Director, Human Resources, and/or City Manager/designee will conduct an investigation of the facts and events of the accident to determine if disciplinary measures are warranted. Accidents where the City employee was driving or operating machinery under the influence of alcohol or a controlled substance may result in discipline up to and including termination.

23. Workplace Violence

The City is committed to providing its staff a friendly, courteous, and impartial work environment. The City acknowledges that human relationships are subject to conflict and that some employees may be exposed to violence by the nature of their jobs. The City is committed to maintaining a safe, healthy, and efficient work environment in which acts of violence by employees or citizens will not be tolerated.

The City strives to provide a safe and secure work environment. Employees should avoid or minimize potentially violent situations to protect themselves from harm. If an employee anticipates a particularly confrontational situation, the employee should notify their supervisor, or the City Manager or designee, so that additional security can be arranged. When a situation begins amicably, but turns hostile, employees should try to de-escalate the situation. If de-escalation tactics don't work, the employee should withdraw from the situation. Force should not be used unless it is absolutely necessary for self-defense.

Threats or acts of violence, experienced or witnessed, should be reported to the employee's supervisor, Human Resources, or the City Manager/designee as soon as possible. The City will promptly investigate any complaint received that pertains to workplace violence. The identity of the person making the complaint will be protected as much as possible. The City will take appropriate and prompt actions against any individual who engages in any threatening or intimidating behavior or acts of violence, or who uses any obscene, abusive, or threatening language, or gestures. Statements like "If you do that, I will hurt (or kill) you," or "I'm going to get you," qualifies as a threat. Threats are significant because they may precede actual acts of violence. There is also evidence that threats may produce significant psychological damage to the recipient. Stalking any individual is also considered a threat.

Some people express their anger and aggression through physical acts. This tends to result in property crimes, including sabotage, theft, vandalism, and destruction.

Some people express their anger and aggression through physical attacks on other people. This includes physical acts such as shoving, pushing, hitting, or other aggressive or unwanted contact occurring between two people. Any physical attack is considered assault and may be pursued as such.

If a City employee has violated this policy, such action may warrant disciplinary action up to and including termination. If necessary or appropriate, the City will notify the necessary law enforcement personnel and pursue prosecution of violators of this policy.

False or malicious reporting of violent behavior will result in an investigation of the reporting individual(s) and appropriate corrective action.

This policy prohibits employees from bringing unauthorized firearms or other weapons (including stun guns, batons, etc.) onto City premises. Employees are also prohibited from carrying unauthorized firearms or other weapons in City vehicles or in personal vehicles if conducting City business.

Employees should promptly inform Human Resources or the City Manager/designee of any protective or restraining order that they have obtained that lists the workplace as a protected area. If there is fear that the domestic violence could result in workplace violence, employees should notify their supervisor, Human Resources, and the City Manager or designee immediately so appropriate security measures can be arranged.

24. Working Hours/Work Week

Normal working hours for City offices are from 8:00 a.m. to 5:00 p.m. Monday through Friday. Most employees are expected to adhere to this schedule, however alternative schedules may be considered by the City Manager/designee. The workweek begins on Sunday at 12:00 a.m. and end on Saturday at 11:59 p.m. Employees who request an alternative schedule for a temporary period of time are required to submit a Change of Workweek Waiver form to Human Resources for review and to obtain City Manager/designee approval.

Hours Worked - Generally includes all time an employee is on duty at the employer's establishment, or at a prescribed workplace, as well as all other time during which the employee is suffered, or permitted, to work for the employer. For overtime calculations, hours worked do not include hours for vacation leave, sick leave, personal days, workers' compensation, or compensatory time taken.

Nonexempt employees working over 40 hours per week will be paid overtime at 1 1/2 times their hourly wage rate. If the supervisor or the City Manager/designee and the employee agree, the non-exempt employee can elect to accumulate compensatory time (comp. time) for use as time-off at a future date at a rate of 1 1/2 times the number of hours worked over the 40-hour work week. Non-exempt employees must receive authorization to work overtime, or to accrue comp time hours

from their supervisor, prior to working the additional hours. Accumulated comp time hours will not exceed 60 hours at any time. Any accrued comp time hours will be paid to non-exempt employees upon termination of the employment relationship. Exempt employees do not receive compensatory time for hours worked over 40 hours per week, however, they may use flex-time within the same pay period for such hours as work permits.

Generally, employees scheduled to work in excess of four hours daily will be given an unpaid meal period (Lunch). Department Directors and supervisors have the discretion to schedule meal periods depending on the needs of each department. Generally, supervisors will assign a meal period schedule to each employee. Meal periods are generally one hour, and employees are expected to take the full time allotted and not perform any work during this time unless specifically requested to do so by a supervisor. If an employee needs to take a longer or shorter meal period, they are required to request and receive approval from their supervisor, and it should not interfere with the employee's performance of their duties and coverage of the office hours. Meal periods are to be taken at a time approved by the supervisors and are staggered among the employees to ensure effective service to the residents of City. Meal periods should be taken in the designated break room provided or off site.

Employees may take one 15-minute break when they are scheduled to work four consecutive hours. Break periods are paid but may not exceed 15 minutes per four consecutive hour period. There will be no overtime, additional compensation, or flex-time if employees work through their break periods.

25. Travel and Expense Reports/Reimbursement

All employees will have their travel pre-approved by the supervisor, Department Director, or the City Manager/designee. All employees traveling on City business are required to have a valid Montana driver's license with appropriate endorsements for the types of equipment operated.

Employees completing City business may be compensated for travel expenses, meals, mileage, and/or incidental expenses at a rate as established by the City, and as listed by the Internal Revenue Services and the U.S. General Services Administration. Employees are required to submit a City Travel Request form for all travel and per diem expenses, supported by original receipts.

Air travel must be booked at the economy or lowest cabin rate and must be supported with a detailed receipt. The City will cover baggage fees for one piece of luggage unless otherwise authorized.

Lodging accommodations are to be paid at actual cost and must be supported with a detailed receipt.

Eligibility for meal reimbursements will follow the requirements set forth by the State of Montana and only includes travel with a final destination outside the boundaries of Flathead County. In addition, if meals are included in tuition, registration fees, lodging charges, or provided by the conference and training, the per diem rate for meals will be reduced accordingly. A copy of the agenda or conference registration must be submitted that details provided meals.

To claim a travel expense reimbursement for a meal, an employee must be in a travel status for more than three continuous hours within one of the following time ranges:

Time Range	Meal Reimbursement
12:01 a.m. to 10 a.m.	Breakfast
10:01 a.m. to 3 p.m.	Lunch
3:01 p.m. to midnight	Dinner

For example, if an employee travels from 8 a.m. to 2 p.m., they will receive the meal reimbursement rate only for lunch. If an employee travels from 10 a.m. to 6:30 p.m., they will receive the meal reimbursement rate for lunch and dinner.

Meals will be paid at the per diem meal rate set forth by the U.S. General Services Administration for the specific travel destination of the employee, if eligible. To determine the correct rate, a search for the travel destination should be performed through the U.S. General Services Administration website (<https://gsa.gov/perdiemrates>). Once the M&IE amount is determined based on the travel destination, the table below breaks that rate down for each meal including breakfast, lunch, and dinner. The dollar value for incidentals included in the total M&IE amount will not be considered an authorized travel expense.

M&IE	Breakfast	Lunch	Dinner
\$51	\$11	\$12	\$23
\$54	\$12	\$13	\$24
\$59	\$13	\$15	\$26
\$64	\$15	\$16	\$28
\$69	\$16	\$17	\$31
\$74	\$17	\$18	\$34

The website for the detailed breakdown of any M&IE is <https://www.gsa/travel/plan-book/perdiem-rates/meals-and-incidentals-mie-breakdown>. The rates are updated annually by the U.S. Government with any changes becoming effective October 1st. A new table showing updated rates will be distributed to staff each year.

Any deviations from this policy must be approved by the City Manager/designee.

Employees are encouraged to use a City vehicle when traveling. (See the Use of City of Whitefish Vehicles and Equipment section.) If a City vehicle is not available, employees may use their own vehicle and receive the IRS mileage reimbursement. When employees use their own vehicles for City business, they are required to have proof of liability insurance coverage.

Employees may request an expense advance, as approved by their supervisor, to offset undue financial hardship on employees traveling for City business. The advance must be justified with reasonable requests for meals, mileage reimbursement cost, and public transportation, excluding airfare, as noted above, or an employee may be reimbursed upon their return. Pre-approved registration fees, airfare, and lodging expenses can be paid directly to the training agency, airline,

or hotel in advance by using a City credit card. In certain circumstances, use of a personal credit card may be approved by the Department Director or City Manager, and costs reimbursed upon return. After returning from travel, the employee must provide an itemized expense report with attached receipts documenting the expenditures of the trip on the City Travel Request form. If the travel advance exceeds the receipts documenting expenditures, the employee must reimburse the City the difference. Any legitimate balance owed to the employee for receipts exceeding the travel advance will be promptly reimbursed by the City.

Non-exempt employees whose travel requires an overnight stay will be paid for travel time⁹ during regular work hours and as approved outside regular work hours. Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on nonworking days. Thus, if an employee regularly works from 8 a.m. to 5 p.m. from Monday through Friday, the travel time during these hours is worktime on Saturday and Sundays as well as on the other days. Regular meal period time is not counted. Any work which an employee is required to perform while traveling must be counted as hours worked¹⁰. Voluntary attendance outside the employee's regular working hours for conference, or training social events (continental breakfast, dinners, lunches, networking events, etc.), may not be compensated. Employees must clearly communicate with their supervisor to determine if they are "required" or "not required" to attend such voluntary events and provide an agenda describing the event prior to travel. The supervisor or Department Director will review and determine whether the time will be considered and approved as hours worked. Human Resources is available to assist in the determination of hours worked as needed.

Willful misrepresentation of expenses or receipts is unlawful and may result in disciplinary action up to and including termination.

When working away from the office, employees should maintain contact with the appropriate City office.

Occasionally it may be necessary to get in touch with traveling employees. Traveling employees should leave an itinerary with appropriate City staff in the event the employee needs to be contacted.

26. Use of City of Whitefish Vehicles and Equipment

The City will designate the positions that require the use of City vehicles on a take-home basis. All City vehicles are to be primarily used for business-related purposes, and if possible, are to be available and shared among all employees when needed for business-related travel. Unless authorized, employees will not use City vehicles for personal business, unless such use is minor and incidental to the use for City business. Employees who believe their position warrants the designation of a City vehicle should discuss such during the annual evaluation period or when

⁹ A.R.M. 24.16.1010

¹⁰ A.R.M. 24.16.1009

other budgetary items are reviewed.

Employees whose work requires operation of a motor vehicle must present and maintain a valid Montana driver's license with appropriate endorsements for the types of equipment operated and as required for the position. Employees must maintain a driving record acceptable to the City's insurer, or indemnity carrier, or as otherwise stated in the job description. Employees must report any changes in driving record or status to Human Resources immediately. Failure to do so may result in disciplinary action up to and including termination. Employees whose job requires a Commercial Driver's License (CDL) are subject to and need to meet any additional Federal and State established license requirements.

Employees using a City vehicle must observe and obey all traffic regulations and exhibit care of the vehicle. Employees and other authorized passengers (other City employees) are required to wear seat belts, and observe all laws, including those related to electronic devices, while driving. Vehicles must be parked in an authorized or unrestricted space. When the vehicle is left unattended, the employee must secure the vehicle by rolling-up all windows and locking the doors. Employees are prohibited from smoking in the City vehicles.

Employees should report any lost, stolen, or misplaced City property and any unsafe vehicle condition in need of repair to their supervisor or City Manager/designee immediately.

All City-owned facilities, buildings, equipment, motor vehicles, tools, supplies, material, and other items of value, including computers and software, cell phones, security cards/FOBs, door and lock keys, are for the express purpose of carrying out the officially adopted programs and services of the City. No employee will use any City-owned facility, building, equipment, motor vehicle, tool, supply, material, or other item of value for their personal benefit, or for the personal benefit of any other individual, unless such action is required in the performance of officially assigned duties. Employees will take proper care of all City property they are entrusted with and will return said property in proper working order upon termination of employment. Failure to return equipment may be considered theft and may result in discipline, including and up to termination and criminal prosecution.

All City related accidents will be immediately reported, in writing, on appropriate reporting forms. The employee must provide in the report a detailed description of the incident or accident events leading up to the event and any pertinent information necessary to complete an investigation. Employees must notify the supervisor, Department Director, Human Resources, and/or City Manager/designee immediately who will complete an investigation and determine if disciplinary action is necessary. Employees must immediately report all vehicle accidents to law enforcement for their investigation. Employees must cooperate with and are permitted to discuss the incident with Emergency Services Personnel, their supervisor, Department Director, Human Resources, City Manager or designee, insurance adjusters, and law enforcement. Accidents where the City was driving or operating machinery under the influence of alcohol or a controlled substance may result in discipline up to and including termination.

27. Holidays

The City observes the following holidays:

- January 1 - New Year's Day
- Third Monday in January - Martin Luther King Day
- Third Monday in February – President's Day
- Good Friday¹¹
- Last Monday in May - Memorial Day
- July 4 - Independence Day
- First Monday in September - Labor Day
- Second Monday in October - Columbus Day/Indigenous Peoples' Day
- November 11 – Veterans' Day
- Fourth Thursday in November - Thanksgiving Day
- Heritage Day¹² – Day after Thanksgiving
- ½ day December 24 – Christmas Eve
- December 25 - Christmas Day

In most cases, if a holiday falls on a Saturday, the Friday preceding is observed as a holiday. In most cases, if a holiday falls on a Sunday, the following Monday is observed as the holiday.

Except as provided in Collective Bargaining Agreements, if any employee is required to work on any established holiday, eligible employees will be compensated for the hours worked at the rate of time and one-half, as outlined in Personnel Policy 11.7 (A). Except for employees required to work on holidays, employees will take holidays off work – working that day is not an option without advance written approval from the City Manager or designee.

If one or more regular holidays fall in the period of an employee's annual vacation leave, the employee will not be required to use a vacation day on the holiday(s). If a holiday falls on an employee's regularly scheduled day off, the employee is entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday in the same pay period, or as scheduled by the employee and the employee's supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off, provided the employee is in a pay status on the employee's last regularly scheduled working day immediately before the holiday, or on the employee's first regularly scheduled working day immediately after the holiday.

For those employees who are regularly scheduled for shifts longer than eight (8) hours, holiday time will only be paid for eight (8) hours. The hours over eight (8) must be accounted for by the employee either by working additional hours on a different day during the week the holiday is recognized or using compensatory time or vacation leave. Example: A full-time employee scheduled to work ten (10) hours on a holiday would earn eight (8) hours of holiday time and then work the additional two (2) hours on another day(s) during the same week or use two (2) hours of

¹¹ Resolution B-1000 on October 3, 1983.

¹² Resolution 92-36 on November 16, 1992

compensatory time or vacation leave. This policy will apply only to employees hired after November 6, 2023. Employees covered under a collective bargaining agreement will receive holiday pay in accordance with their respective CBA.

Regular, part-time seasonal, and temporary employees will receive a pro rata share of compensation at their regular straight time hourly rate for holiday pay. Holidays are prorated based on the number of hours typically scheduled for the part-time employee¹³. To figure the holiday benefit, divide the hours of a typical schedule for two weeks by 10 (the number of working days in a pay period). Short-term workers do not receive holiday pay.

28. Personal Day

Each regular full-time and regular part-time employee will earn a personal day on July 1st. A personal day is equivalent to eight (8) hours for each regular full-time employee or as otherwise listed in an employee's collective bargaining agreement. Regular part-time employees will earn their personal day on a pro-rata basis just as they receive holiday and vacation hours or as otherwise listed in an employee's CBA. Seasonal, temporary, and short-term employees do not earn personal days.

29. Annual Leave/Vacation

Each regular full-time, regular part-time employee, temporary employee, and seasonal employee will earn annual leave from the first day of employment. Regular, part-time, and full-time employees are not eligible to take the accrued leave until the employee has been continuously employed for a period of six continuous months. Seasonal and Temporary employees are eligible to take accrued annual leave upon completion of a six-month qualifying period.

Eligible employees accrue vacation leave as follows:

Time Worked	Work Day Credit Per Year	Hourly pro-rata
1 day through 10 years	15	.058/hour
10 years through 15 years	18	.069/hour
15 years through 20 years	21	.081/hour
20 years or more	24	.092/hour

Employees with prior Montana government service may earn accelerated leave based on time worked. Time spent as a short-term employee does not apply toward the employee's rate of earning annual leave. Employees are responsible for providing the documentation of prior Montana government service. Employees must contact Human Resources to request the form

¹³MCA 2-18-603 (b)

needed to document prior service. Accelerated leave accruals will begin at the beginning of the next pay period after Human Resources receives documentation of eligible service.

Regular part-time employees are entitled to use their vacation leave if they have worked the qualifying six-month period. Accrual of vacation benefits are based upon the hours worked during the pay period.

Eligible Temporary and Seasonal employees earn annual vacation leave pro-rated by the hour as shown in the chart above, however, they must be employed for six qualifying months before they may use the annual vacation leave.

Short Term Workers, or a student intern, as both terms are defined in MCA 2-18-601, may not earn vacation leave credits, and time worked as a short-term worker or as a student intern does not apply toward the person's rate of earning vacation leave credits.

The maximum annual leave amount accumulated is twice the number of days earned annually at the end of the first pay period of the next calendar year. Vacation leave exceeding the maximum amount must be used by April 1st of the next calendar year in which the excess was accrued, or it will be forfeited. It is the responsibility of the supervisor or designee to provide reasonable opportunity for an employee to use, rather than forfeit, accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited, and the supervisor or designee denies the request, the excess vacation leave is not forfeited, and the City will ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.

Employees may not accrue annual vacation leave while in a "leave-without-pay" status or while using donated leave.

Requests for annual leave cannot be taken in increments of less than fifteen minutes. Requests for annual leave must be submitted in advance, and in writing, using the department or Human Resources leave request form, and be pre-approved by the employee's supervisor or designee. The annual leave may be approved after considering the best interest of the City, the employee's department, and the employee's request. Should two employees request the same period of vacation, their supervisor or designee, has discretion regarding the approval of the leave requests.

Absence from employment by reason of illness will not be chargeable against unused vacation leave credits unless approved by the employee.

An employee who has passed the six-month qualifying period, and has separated from the service of the City, for a reason not reflecting discredit on the employee will be entitled upon termination to cash compensation pay-out for unused vacation leave. The payout will be based upon the employee's salary at time of termination.

Annual leave may not be used to extend a resignation or termination date.

30. Sick Leave

All regular full-time employees earn sick leave from the first day of employment. However, they are not entitled to use paid sick leave until they have been employed continuously for the qualifying period of 90 days. For calculating sick leave, 2,080 hours (52 weeks X 40 hours) equals one year. Sick leave must be credited at the end of each pay period. Employees may not use sick leave until it is credited. Advance sick leave is not allowed. Sick leave is earned at a rate of twelve working days for each year of service without restriction as to the number of working days that may be accumulated. Employees may not accrue sick leave while in a “leave-without-pay” status or while using donated leave.

Regular part-time employees earn a prorated amount of sick leave at the rate of 0.046 times the number of hours worked. Full-time, Temporary, and Seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

Short Term Workers do not accrue sick leave.

Employees may use sick leave for personal illness or physical incapacity, sickness of immediate family member, or death in the immediate family of the employee (for days beyond bereavement leave in Section 39 by mutual agreement with City Manager or designee). Sick leave cannot be taken in increments less than fifteen minutes. Sick leave benefits will apply to bona fide cases of sickness, accidents, doctor or dental appointments, maternity/paternity leave, and requests for the employee's presence due to immediate relatives' illness, or emergency. A supervisor may require a physician's certificate, or similar evidence, to substantiate sick leave of an employee.

An employee who has passed the 90-day qualifying period and who separates from employment from the City will be entitled, upon termination, to cash compensation pay-out for unused sick leave equal to one-fourth of the accumulated sick leave. The pay-out will be based upon the employee's salary at time of termination. Sick leave may not be used to extend a resignation or termination date.

At the City 's request and expense, an employee may be subject to an examination by a physician following a sick leave, or other absence occasioned by illness or injury, to ensure the employee can perform the necessary functions of the position. Abuse of sick leave may result in disciplinary action up to and including termination with forfeiture of cash compensation pay-out for unused leave¹⁴.

Employees who need to use sick leave due to extenuating circumstances before they finish the qualifying period may ask their supervisor, or Human Resources to grant paid sick leave. Approved use of paid sick leave during the first 90-days of employment will extend the employee's probationary period by the amount of sick leave hours used.

¹⁴ Section 2-18-618 (8) MCA.

Sick Leave Donations: An employee may, at their discretion, donate no more than 80 hours of their available sick leave, and/or vacation credits, to another employee in any calendar year who is in need, and has exhausted their own sick and annual leave, due to the employee's personal or family illness, accident, or maternity leave. The sick leave donor must retain at least 80 hours of sick leave in their personal bank after donation. The aggregate total of such received sick/vacation leave will not exceed 480 hours per regular full-time employee (or a prorated amount based on normal hours worked for a regular part-time employee) in any twelve-month period. Any donor must notify the City of their intention to make such a donation. The donor and recipient must notify the City of the requested sick/vacation leave transfer seven working days before the pay day in order to have such credits applied for that pay period. The donation is based on the number of hours (credits), not on rate of pay and is on a one hour donated for one hour received basis. The donation of credits, once made, cannot be rescinded by the donating employee. If there are multiple sick leave donation recipients in any twelve-month period, a donating employee (donor) may donate to multiple recipients, up to 80 hours each, their accumulated leave, as long as the donating employee (donor) retains at least 80 hours of sick leave in their own personal bank after donations.

Employees may not accrue sick or annual/vacation leave while using donated sick leave.

Credits not used by the recipient employee will be returned to the donating employee when the recipient employee returns to work, completes their recuperation, or terminates employment with the City. Credits will be returned on a pro-rata basis of their donation.

To be eligible to receive donations of leave credits, an employee:

- A. Must be eligible to use sick leave;
- B. Have an illness, injury or other qualifying condition, as described in the Personnel Policy, that results in an absence of at least ten working days unless otherwise approved by the City Manager or designee; and
- C. Must have exhausted all other accrued paid leave (sick, vacation, personal) and compensatory time.

31. Light Duty

The City is not always obligated to provide light duty for injured or ill workers returning to work. Light duty is often a good mechanism to get employees back to work in a productive manner. If allowed, the procedures governing light duty are as follows:

- A. Human Resources will send the employee's treating physician the employee's pre-injury job description, and the "light duty" job description (duties the City plans on having the employee perform, the hours per week, walking, standing etc.).

- B. The City will ask the treating physician to provide a written release specifically stating that the employee can perform the "light duty" job description and if not, what duties the employee can and can't perform and for how many hours per day.
- C. Employees who are in a light duty status may not be eligible to work overtime or respond to callout, callback, or be in an on-call status, based and dependent upon treating physician recommendations and restrictions.
- D. The doctor's release to light duty must state the start date and end date of light duty.
- E. Human Resources will provide a letter to the employee containing the above information, and stating that if there are any changes, the doctor will be required to provide another note/letter describing the changes directly to Human Resources. Both Human Resources and the employee will sign the letter (the letter will also indicate whether the employee will be taking FMLA leave).
- F. Employees who refuse light duty assignments may be subject to discipline up to and including termination.
- G. When the employee is released from light duty to regular duty, they will be required to provide another doctor's note authorizing the release.
- H. Human Resources will keep this information in a separate file from the employee's personnel file.

32. Pregnancy Leave

The City complies with the Pregnancy Discrimination Act (Civil Rights Act of 1964 as amended, Title VII, Section 701, *et seq.*) as well as all relevant pregnancy leave provisions in federal, state, and local statutes. A female employee will not be terminated because of her pregnancy. Employees who are disabled as a result of pregnancy will not be denied any compensation that they are entitled to as a result of the accumulation of leave benefits accrued; however, the City reserves the right to require medical verification that the employee is not able to perform employment duties. The City will grant the employee a reasonable leave of absence for pregnancy but will not require an employee to take a mandatory maternity leave for an unreasonable length of time.

Employees should notify their supervisor, Human Resources, or City Manager/designee of their intent to take maternity leave within a reasonable time after confirmation of pregnancy. As soon as reasonable, the employee should also report the expected due date and the estimated leave of absence.

Upon signifying intent to return to work at the end of the leave of absence, the employee will be reinstated to the original job and/or equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other benefits.

33. Breast Feeding in the Workplace Policy

Women returning from maternity leave who wish to continue breastfeeding or express milk for their child(ren) will be provided a private space (other than a toilet stall) with suitable lighting and electricity for pumping apparatus. The selection of the space will be made on a case-by-case basis in consultation with the employee. Standard break times will be primarily used with additional unpaid break time provided as mutually agreed upon. Additionally, the City will make every effort to provide suitable facilities for milk storage during the employee's daily work period. The City will comply with all requirements listed in §§ 39-2-215, 39-2-216, 39-2-217, MCA, whether or not specifically listed here.

34. Family and Medical Leave Act (FMLA)¹⁵

An eligible employee may take up to 12 weeks of leave per year if they have worked for at least 1,250 hours within the previous 12 months and have been employed for 12 months.

Family or Medical Leave can be taken for the following reasons:

- A. The birth of a child and in order to care for that child.
- B. The placement of a child for adoption or foster care and to care for the newly placed child.
- C. To care for a spouse, child, or parent with a serious health condition.
- D. An employee's own serious health condition.
- E. Qualifying exigencies leave for families of members of the National Guard, or Reserves, or of a regular component of the Armed Forces when the covered military member is on covered active duty, or called to covered active duty.
- F. Military caregiver leave (also known as covered service member leave) to care for an injured, or ill, service member or veteran.

Eligible spouses who both work for the City are limited to a combined total of 12 workweeks of leave in a 12-month period for the following FMLA qualifying reasons:

- A. The birth of a child and bonding with the newborn child;
- B. The placement of a child with the employee for adoption or foster care and bonding with the newborn child; and
- C. The care of a parent with a serious health condition.

¹⁵ 29 U.S.C. Sections 2601-2654.

Employees can take up to 26 weeks for an FMLA circumstance related to military caregiver leave during a single 12 -month period. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available. This leave will also be based on a look back period.

Employees are required by law to provide at least a 30-day notification of intent to use Family or Medical Leave whenever possible. Employees will be required to use their accrued sick leave, compensatory time, and personal time for any part of the 12-week period. The remaining portion of the leave will be unpaid leave or the employee may choose to use other accrued leave balances, such as annual vacation leave, if available. As required by federal law, the City will continue to pay medical, dental, and vision insurance during the FMLA leave period. FMLA will run concurrently with Workers' Compensation benefits.

When the City acquires knowledge that leave may be for a FMLA-qualifying reason, Human Resources will provide the employee with notice concerning their eligibility for FMLA leave and rights and responsibilities under FMLA. Human Resources will notify the employee whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

Employees will only be provided a total of 12 weeks in a rolling 12-month period looking back from the first day of the leave request. (For example, if an employee took 12 weeks leave beginning July 1, 1996, and requested to take 12 weeks leave beginning May 1, 1997, the request would be denied because the employee used 12 weeks looking back from May 1, 1996, through April 30, 1997.)

Upon request of an employee's supervisor, Human Resources, or City Manager/designee, an employee must provide certification explaining the serious health condition, or the family member's condition. It should detail:

- A. The date on which the condition began;
- B. The probable duration of the condition;
- C. Appropriate medical facts regarding the condition;
- D. A statement that the employee is needed to care for a spouse, parent, or child; and
- E. A statement that the employee's own health condition makes it impossible for them to work.

If the City is not satisfied with the certification, it may require a second opinion at the City's expense. In the event of conflicting opinions, a third provider will be retained, also at the City's expense, to render a binding decision.

Under certain conditions, employees who are designated as "key" may be denied job restoration rights. These employees must be in the highest paid 10% of the work force and their absence must

mean a substantial economic loss to the City. If an employee designated as "key" still takes family leave, the City will pay the employee's health care premiums but does not guarantee that the City will return the employee to the position they left.

An employee who fails to return to work on their regularly scheduled workday after the pre-approved leave will be considered to have voluntarily resigned, unless the leave period is extended, in advance, by Human Resources or City Manager/designee. Providing false or misleading information to justify a FMLA absence may result in discipline up to and including termination. FMLA provisions provide the City retains the discretion to decide whether to recover health care premiums from employees who do not return to work.

Time spent away from work recovering from a Workers' Compensation-related illness or injury will be counted against the employee's FMLA leave entitlement if the employee's absence is due to a serious illness or injury that qualifies for FMLA leave.

35. Public Office Leave

Employees elected or appointed to an eligible public office will be granted an unpaid leave of absence (unless they want to use accumulated eligible leave time), not to exceed 180 days per year while performing the public service. Employees will be restored to their positions with the same seniority, status, compensation, hours, locality, and benefits as existed prior to their leaves of absence for public service. Employees must return to work within 10 days following the completion of the service unless they are unable to return due to an illness that has been certified by a medical doctor. The City will comply with all relevant restrictions and guidelines provided within the Hatch Act, (5 U.S.C. 7321 through 7326, as amended).

No employee may solicit any money, influence, service, or other thing of value, or otherwise aid, or promote any political committee, or the nomination or election, of any person to public office while on the job or at their place of employment.

36. Absence without Authorization

Absence is the failure to report for work and/or to remain at work as scheduled. It includes late arrivals and early departures as well as absence for an entire day. Regular and punctual attendance is essential for efficient operations. If an employee does not know in advance that they will be absent, or unavoidably late, the employee must telephone the office and speak directly to their supervisor, Department Director, or the City Manager/designee. Failure to request advance approval, or to report an absence, as described above may result in disciplinary action. An employee who fails to call in for three successive days to report such absences may be considered to have voluntarily terminated employment with the City. Employees with above average absenteeism may be required to document the reasons, including providing a doctor's certificate or other evidence. Upon returning to work from an unexcused absence, the employee must report to their supervisor and disclose the reason for the absence. If the reason is not acceptable, the employee may be subject to disciplinary action.

37. Leave without Pay

Leave without pay may be granted by the City Manager or designee for any cause that doesn't violate any laws, regulations, or policies set forth in this policy. Employees may be granted leave without pay for a specified time, generally not to exceed one year during their employment period.

Whenever possible, the employee should provide the employee's supervisor, Human Resources, and City Manager/designee with at least 30 days' written notice so workloads/tasks can be covered. To request leave-without-pay, the employee must provide the employee's supervisor, Human Resources, and City Manager/designee the beginning and ending dates of the leave, and the reason for the requested leave.

Other than on furlough days approved by the City Manager, vacation, holidays, personal days, and sick leave cease to accrue during leave-without-pay. Employees will not be allowed to use sick, or annual leave, and will not receive holiday pay while on leave-without-pay status. The City will not pay medical insurance premiums during a period of leave-without-pay other than furlough days. However, the employee may choose to continue insurance coverage during the leave by paying the City the total premiums on a monthly basis, as approved by the City's health plan carrier. If the employee fails to continue the insurance coverage, the insurance may be canceled. Should it be canceled, the employee may be subject to policy restrictions upon returning to work.

Depending upon the circumstances, employees still in their probationary period may be allowed to take leave-without-pay. However, if leave is granted, their probationary period will be extended by the amount of time taken during the leave.

An employee who fails to return to work on their regularly scheduled workday, after the pre-approved leave without pay period, will be considered to have voluntarily resigned unless the leave period is extended, in advance, by the City Manager. Providing false or misleading information to justify leave-without-pay may result in disciplinary action up to and including termination.

38. Attendance

Employees are expected to report to work as scheduled by their supervisor, Department Director or the City Manager/designee. If the employee is late to the point where it will affect their job duties, the employee must contact their supervisor, or designee, and provide an explanation. The method of communication will be by phone, email, or text message. It is the employee's sole responsibility to ensure communication has been received and acknowledged. If the tardiness/absence is deemed unreasonable, it may result in disciplinary action. Advance notice should be given if possible to allow the City to schedule a replacement, if necessary. If the employee's supervisor, Department Director, or the City Manager/designee are unavailable, the employee must speak directly with Human Resources, or a senior staff member, and explain the situation. Failure to notify the office of an absence or tardiness may result in disciplinary action.

39. Bereavement Leave

- A. In the event of a death(s) of the regular full-time or regular part-time employee's immediate family, time off with pay up to a maximum of five workdays will be allowed for the employee. The leave provided will not be charged to the employee's sick leave and is available whether or not the employee has accrued sick leave. Leave available but not used within thirty days of the death will be forfeited. Requests to use bereavement leave beyond thirty days of the death due to delay in services must be submitted in writing to Human Resources, accompanied by documentation, showing when services will be held, for consideration and approval by the City Manager.
- B. Use of sick leave beyond five workdays in the event of a death will be by mutual agreement with Human Resources and the City Manager/designee.
- C. All bereavement leave must have the appropriate authority's prior written approval.
- D. Seasonal, temporary, and short-term employees are not eligible for bereavement leave.
- E. Regular part-time employees are eligible for a prorated amount of bereavement leave. Example: employees scheduled for four hours per day, five days a week, are eligible for five days, at four hours per day.

40. Jury Duty

Any regular, full-time, or regular part-time employee who is required to serve on a jury will be allowed authorized leave with pay less any amount received (jury or witness fees) for such service. This leave also applies when an employee is subpoenaed as a witness or required to appear before a court or legislative committee/quasi-judicial body in response to a subpoena or other directive. A probationary employee will have their probationary period extended by the same amount of time as required for serving on jury duty or acting as a witness. An employee who receives notice of jury duty or witness service must notify their supervisor immediately so that arrangements may be made to cover the position. The City reserves the right to request that an employee who is called for jury duty be excused if the employee's absence would create a hardship on the operational effectiveness of the department to which they are assigned.

The employee is responsible for giving the jury or witness fees to Human Resources excluding mileage and actual expense fees. If an employee chooses to use vacation leave, the employee may keep their juror or witness fees in addition to their mileage and actual expense fees. The employee may keep any witness fees or court payment if the services are performed on the days of their regularly scheduled weekend or days off. Benefits continue to accrue while an employee is on jury duty. If excused as a juror on any given day, the employee is expected to contact their supervisor and to report to work as instructed.

41. Military Leave

The City complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 USC Sec. 4031, *et seq.*) as well as all relevant state laws (including Montana Military Service Employment Rights Act, MCA 10-1-1009) covering members of the Montana Army and Air National Guard.

An employee who is a member of the Montana National Guard, or any United States military force, or Reserve Corps, and who has been an employee for a period of six months will be given leave of absence with pay for a period of time not to exceed 120 hours in a calendar year. Unused leave may roll to the next calendar year but may not exceed 240 hours total for the calendar year. Any excess leave beyond 240 hours will be forfeited.

Military Leave can be used for attending regular encampments, training cruises, and similar training programs of the military forces of the United States. This leave will not be charged against the employee's annual leave.

Employees employed less than six months are entitled to leave without pay for the purposes listed above. Employees using Military Leave must report it as such on their timesheets and have prior approval for leave.

42. Educational Leave/Training

The City encourages training for employees where the training improves employee productivity, knowledge and skills, and when City's services and programs will be more efficient and effective. The City may provide full or partial funding for training that is a work-related program, seminar, conference, convention, etc., and is pre-approved by the employee's supervisor or the City Manager/designee.

Employees should discuss training needs during annual evaluations, particularly if the training requires extensive time away from work, is of significant cost, and/or requires out-of-state travel. The City Manager or designee may evaluate such training courses to ensure maximum value of the course. Additionally, the training may be delayed until future fiscal years to include the expense within the budget.

43. Licensing Fees

The City recognizes employees that associate with various organizations or maintain certifications or licenses are beneficial to the City. If the City requested that an employee obtain a license, or if a license is necessary for the employee to perform their job duties, the City will pay for the licensing fees and/or annual renewal fees.

All employees are encouraged to visit with their supervisor, and/or City Manager/designee, particularly during the annual evaluations, so that the cost of maintaining a current license, or the costs for a licensure, that the employee would like to obtain can be included within the budget process.

44. Insurance

Regular, full-time, and part-time employees may participate in the City's benefit plan for individual employees, eligible dependents, and eligible domestic partnerships. The City will pay a specified dollar amount into the benefit plan that the employee can use to pay for options elected. For regular part-time employees, the City will pay a pro-rated amount (based on regular hours worked) of the contribution into the benefit plan. Except for Furlough days, and FMLA qualifying events, the City will not pay medical insurance premiums during a period of leave- without-pay or suspension without pay, for periods that extend beyond one pay period or as otherwise reviewed and approved by the City Manager.

Specific benefits of the benefit plan are described in the Plan Document and Summary Plan Description available from Human Resources. For employees using specific insurance products, the insurance plan documents will be forwarded to them directly from the Insurance Provider (currently MMIA). The Insurance Provider will also supply insurance cards for the covered employee/dependents directly to the employee.

The waiting period for new employees is the 1st of the month following the date of hire. Monthly premiums are paid in advance which may require new employees to double up their share of the premium during the first month of employment. Human Resources will notify new employees of coverage and premiums due during the onboarding and orientation process.

If the City employs two employees covered under the same family coverage, the City will pay only one family coverage. While the City will not revoke cash-in-lieu payments granted previously, all employees hired after January 17, 2017, or current employees whose status changes will not receive any cash-in-lieu of payments.

Use of accumulated leave (annual vacation leave, sick leave, personal time, or compensatory time) upon termination of employment cannot be utilized to extend benefits with the City beyond the last day of actual work completed.

45. Retirement

Retirement pension is provided pursuant to Montana State Law. Please see Human Resources for information and enrollment procedures.

46. Personal Demeanor and Appearance

In the interest of the City and the public, an employee's conduct should reflect favorably on the employee, fellow employees, and the City. Off-duty misconduct may result in discipline when it renders an employee less capable of performing their duties and responsibilities, or when it reflects unfavorably upon an employee's continued qualifications for employment.

The City's policy is to place as few restraints on an employee's personal conduct as possible. The City relies on each employee's good judgment and sense of responsibility as the principal source of guidance for conducting day-to-day duties and responsibilities. However, for the protection of

the City's business interests, and those of other employees, certain rules of conduct have been established. The rules are formalized for each employee's information and to minimize the likelihood of any employee, through misunderstanding or otherwise, becoming subject to disciplinary action.

Employees are expected to present themselves in a professional and appropriate manner for their position, their daily activities, and their expected public contact. Employees should generally keep strong food aromas contained in the employee break areas.

It is the policy of the City that the Mayor, City Council members, appointed Board members, and all employees of the City comply strictly with all State laws regarding ethical behavior, and avoidance of both conflicts of interest and the appearance of conflicts of interest. Employees are referred to Resolution No. 98-22 in the appendix (or as amended or superseded) for the City's policy on Ethics and Conflict of Interest as well as the Code of Ethics set forth in §§ 2-2-101, *et seq.*, MCA.

Receipt of Gifts - Except as provided in this section, a City employee is prohibited from accepting any gift, gratuity, favor, entertainment, loan, or any other item with a value greater than \$50.00 from any person who has, or is seeking, to obtain business with the City, or from any person within, or outside, City employment whose interests may be affected by the employee's performance or non-performance of official duties.

Employees are expected to, and are responsible for, ensuring that their personal appearance and hygiene represent a favorable image of the City and that they dress appropriately for their position, their daily activities, and their expected public contact. Employees are to be well groomed. Their hair should be neat and they should be dressed in clothes that are clean, neat, free of body odor, not excessively worn, and appropriate to the type of service they are providing. Clothing with offensive/obscene language written on it is not allowed, nor is any advertising alcohol or tobacco products permitted. Clothing that is excessively revealing is not allowed. It is important to portray a positive image of our professionalism and commitment to service. Employees attending business meetings, board meetings, or other related contact should dress professionally. The office may receive visitors, board members, etc. and all personnel are to be dressed appropriately, generally in business casual attire. Business casual should present an appearance of professionalism, and generally acceptable articles of clothing include:

- Suits; dresses; skirts; slacks; khakis; skorts; culottes; sweaters; blouses; dressy t-shirts; shirts with City logo; jackets; suit or sports jacket, dress shirts, polo or golf shirts, and vests.
- Uniforms – some employees may be provided City uniforms (shirts, hats, jackets, with City logo). Employees who have uniform clothing are required to wear the items provided during their designated shift unless otherwise instructed not to.

Department Directors, with approval of the City Manager, are responsible for designating, informing, interpreting, and enforcing appropriate attire for their employees. Variations between departments will occur (e.g., one department may be allowed to wear jeans, and another may not). The goal is to administer the dress code consistently within each

department. Any part of an employee's dress, appearance, or hygiene that is deemed unprofessional, or that may endanger the employee and/or staff, may be prohibited by the Department Director, Human Resources, or the City Manager/designee, and may be ordered to take unpaid time to go home and change if their attire is not considered appropriate.

47. Smoking

City office and vehicles are non-smoking and tobacco free facilities. The City prohibits the use of electronic cigarettes and vapor products (as defined under MCA 16-11-302) in City offices and vehicles. Employees may smoke during scheduled break periods but must smoke in smoking areas outside the buildings and vehicles.

48. Sales Calls

Sales calls from professional salespeople are allowed to take place only at the discretion of the City Manager or designee. Employees requesting charitable contributions, or selling products, should visit with fellow employees before or after work, or during lunch hour or breaks. Employees may also choose to circulate a catalog among co-workers to preview at their convenience during lunch hour or breaks. Employees should not be made to feel obligated to purchase items.

49. Discipline

An employee in probationary period status may be terminated during the probationary period without cause.

Upon suspected violation of Federal, State, or Local laws, City rules, policies and/or regulations, or employee conduct/behavior/performance standards, an employee may be subject to disciplinary action. Violations of policies may lead to discipline up to and including termination. The supervisor of the employee will notify the Department Director, Human Resources, and/or the City Manager/designee of any violations. The supervisor, with assistance from the Department Director, Human Resources, and/or the City Manager, will investigate and document situations that may require disciplinary action. Employees may be placed on Administrative Leave (with or without pay) during the investigation.

The employee will be interviewed during the investigation. Prior to the investigative interview, the supervisor, Department Director, Human Resources, and/or City Manager/designee will inform the employee of the suspected violation, and in general terms, the topic of the interview. The supervisor, the employee being investigated and Human Resources will meet and conduct the interview. The employee being interviewed may request that an attendee of their choosing be present at the interview. The attendee will be permitted only to observe the interview and will not be permitted to participate.

Human Resources and/or the City Manager/designee, will inform the employee of the results of the investigation at a hearing. During the hearing, the employee will be allowed to respond to the findings of the investigation. Upon completion of the hearing, Human Resources and/or the City

Manager/designee, will provide a letter to the employee documenting the investigation and hearing process, stating the findings, and declaring the appropriate form of discipline, if any, that will be imposed.

If the employee doesn't agree that the discipline was warranted, or if the employee considers the disciplinary action inappropriate, the employee must follow the grievance procedure.

Appropriate discipline, as determined by the City, will be rendered in one of the following forms:

Oral Reprimand

The supervisor, Department Director, Human Resources, and/or City Manager/designee, will meet with the employee and explain the problem, as well as the necessary action required to correct the problem. The supervisor, Department Director, Human Resources, and/or City Manager/designee will also outline the time period in which the employee must correct the problem and the consequences should the employee not conform or comply with the necessary action. The supervisor, Department Director, Human Resources, and/or City Manager/designee will summarize the conversation with the employee in writing to document the disciplinary procedure as an oral reprimand. The employee and the supervisor, Department Director, Human Resources, and/or City Manager/designee will sign the summary attesting that the meeting took place, that the employee was made aware of the problem, and the corrective action required.

Written Reprimand

The supervisor, Department Director, Human Resources, and/or City Manager/designee will document the problem in a letter to the employee. The supervisor, Department Director, Human Resources, and/or City Manager/designee will meet with the employee, present the letter, and explain the problem. During the meeting the supervisor, Department Director, Human Resources, and/or City Manager/designee will clarify the necessary corrective action, the time period to conform or comply, with the corrective action, and the consequences should the employee not satisfactorily complete the necessary action. The letter to the employee will clarify that the employee is receiving a written reprimand as the disciplinary procedure. A copy of the letter must be signed by the employee, attesting that the employee participated in the meeting, was made aware of the problem, and the corrective action required, and received the written reprimand. A copy of the letter will be placed in the employee's personnel file.

Suspension (with or without pay)

The supervisor, Department Director, Human Resources, and/or City Manager/designee will document the problem in a letter to the employee and indicate whether the employee is being suspended with or without pay. The supervisor, Department Director, Human Resources, and/or City Manager/designee, will meet with the employee, present the letter, explain the problem, and inform the employee of the severity of the discipline received. During the meeting the supervisor, Department Director, Human Resources, and/or City Manager/designee will clarify the necessary corrective action, the time period to conform or comply with the corrective action, and the consequences should the employee not perform the necessary action. The letter to the employee

will clarify the effective dates of the suspension (with or without pay) and the date and work schedule that the employee is to return to work. A copy of the letter must be signed by the employee attesting that the employee participated in the meeting, was made aware of the problem and the corrective action required, and that the form of discipline was suspension (with or without pay). A copy of the letter will be placed in the employee's personnel file.

Demotion - Loss of Duty

The supervisor, Department Director, Human Resources, and/or City Manager/designee, will document the problem in a letter to the employee, and indicate the specific conditions of the demotion including modified job duties and compensation, as warranted. The supervisor, Department Director, Human Resources, and/or City Manager/designee will meet with the employee, present the letter, explain the problem, and inform the employee of the severity of the discipline received. During the meeting, the supervisor, Department Director, Human Resources, and/or City Manager/designee, will clarify the necessary corrective action, the time period to conform or comply with the corrective action, and the consequences should the employee not perform the necessary action. The supervisor, Department Director, Human Resources, and/or City Manager/designee will determine if the demotion is a temporary disciplinary measure or a permanent job modification. In the event the demotion is a permanent job modification, the employee's job description will be updated to reflect such. A copy of the letter must be signed by the employee attesting that the employee participated in the meeting, was made aware of the problem and the corrective action required, and that the form of discipline was a temporary or permanent demotion, and loss of job duties/ responsibilities. A copy of the letter will be placed in the employee's personnel file. If the employee's job description was updated, the employee must sign the updated job description to reflect that the employee has had the modified duties communicated to the employee. A copy of the signed, updated job description will be placed in the employee's personnel file.

Discharge

If the appropriate disciplinary action is discharge, a letter to the employee will document the problem, and summarize the results of the investigation and hearing. The letter will detail the effective cause and date of discharge. The letter will also include a copy of the Grievance Procedure advising the employee of their right to use the procedure and to have the discharge reviewed by the City Manager.

50. Grievance Procedure

A "grievance" means a complaint, protest, or objection by an employee with respect to the conditions of employment, or the interpretation, meaning, or application, of the Personnel Policy or other established departmental policy. Discharge from employment is subject to the grievance procedure.

Employees must follow the grievance procedure to resolve any grievance they may have. Employees are allowed to use the grievance procedure without penalty, harassment, or retaliation for doing so. Each grievance will be fully processed until the employee receives a satisfactory

decision/explanation, or until the employee's right of appeal is exhausted.

Employees should attempt to resolve all disputes prior to involving Human Resources or the City Manager/designee. Employees are encouraged to discuss disputes with their supervisors informally and in a timely fashion. Human Resources may attend meetings between the supervisor and employee if necessary.

Grievance Steps

1. In the event a dispute cannot be resolved informally, the employee must file a grievance, in writing, with the supervisor within ten working days of the occurrence of the disputed issue. The written grievance should outline the disputed issue, relevant facts, and appropriate remedy. Upon receipt of the written grievance, the supervisor will investigate the dispute and respond to the grievance within ten working days of receipt of the grievance.
2. If the response is not acceptable to the employee, the employee may proceed to the next step. The employee must forward the written grievance and the supervisor's response to the Department Director within ten working days from the date of the supervisor's response. The Department Director will investigate the grievance and write a report within 10 working days from receipt of the grievance appeal.
3. If the Department Director's response is not acceptable to the employee, the employee may proceed to the next step. The employee must forward the written grievance and all prior responses to Human Resources or the City Manager within 10 working days from the date of the Department Director's response. The City Manager will investigate the grievance and write a report within ten working days from receipt of the grievance appeal. This step concludes the final appeal process for the employee. The City Manager's decision is final, and binding on the employee, and the City.

Information concerning employee grievances is confidential information and will be discussed only with individuals involved in the investigation or on a need-to-know basis. Management decisions on grievances will not set precedent and are at the discretion of the City Manager or designee so long as it does not violate any laws, regulations, or policies set forth in this policy. Management decisions are not binding on future grievances unless they are officially stated as a policy.

RESOLUTION NO. 98-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADOPTING REVISIONS TO THE ETHICS AND CONFLICT OF INTEREST POLICY.

WHEREAS, on December 15, 1997, the City Council by motion approved an ETHICS AND CONFLICT OF INTEREST POLICY applicable to the Mayor, City Council, and various other individuals and Boards; and

WHEREAS, on January 20, 1998, the City Council determined that it would be appropriate to consider revisions to such policy, and by consensus temporarily suspended the effect of the adopted policy until revisions could be considered by the full Council; and

WHEREAS, the Mayor appointed three Council members to a committee to consider revisions and make recommendations to the Council; and

WHEREAS, having received the Committee's recommendations at its April 20, 1998 meeting, and having considered all of the recommendations and related facts and circumstances, the Council has determined to adopt a revised ETHICS AND CONFLICT OF INTEREST POLICY;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AS FOLLOWS:

Section 1: That the ETHICS AND CONFLICT OF INTEREST POLICY attached hereto as Exhibit "A" is hereby adopted and approved;

Section 2: That all previous ethics and conflict of interest policies are hereby repealed;

Section 3: Although the written disclosure form required by Section 2 of the attached Policy is required to be filed annually by January 31 of each year, since the revised policy is being adopted mid-year, the initial form shall be filed by the Mayor and all City Council members no later than June 30, 1998.

Section 4: This Resolution shall take effect immediately upon approval by the City Council.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 18TH DAY OF MAY, 1998.

MAYOR

ATTEST:

City Clerk

CITY OF WHITEFISH
ETHICS AND CONFLICT OF INTEREST POLICY

Section 1: It is the policy of the City of Whitefish that the Mayor, City Council members, appointed Board members, and all employees of the City of Whitefish comply strictly with all State laws regarding ethical behavior and avoidance of both conflicts of interest and the appearance of conflicts of interest. In addition, because State law does not address all ethical issues that confront public officials, and does not address all possible conflict of interest situations, the City of Whitefish has adopted the following guidelines, which shall apply to the Mayor, City Council members, the City Manager, the City Attorney, and any members of City boards, such as the Board of Adjustment, which make quasi-judicial decisions (as opposed to mere recommendations to the City Council) (hereinafter "Public Officials,") all of which shall be given a copy of these guidelines within one week of taking office or being appointed.

Section 2: The following situations may give rise to a conflict of interest for a Public Official. These situations are examples only and are not intended to be exhaustive. When in doubt, the Public Official should seek the advice of the City Attorney.

- a. Total or partial ownership of a business seeking an approval or benefit from the City.
- b. Any position of officer, director or similar position with respect to any business which seeks an approval or benefit from the City.
- c. Total or partial interest in any real estate or business that is the subject of action by the City.
- d. Any employment, or any other significant income-producing relationship, held within the City's extra-territorial planning jurisdiction, if the employer or other significant client seeks an approval or benefit from the City.
- e. Lending or borrowing of funds with individuals or entities who seek an approval or benefit from the City.
- f. Any existing or proposed contract between the Public Official and the City, or between the City and any business of which the Public Official is an owner, member, or holds a position of officer, director, or holds a position of authority.
- g. Any employment by any government body other than the City that seeks an approval or benefit from the City.

Within thirty (30) days of the election at which a Mayor or City Council member is elected, such individuals shall file with the City Clerk a written disclosure, on a form developed by the City, and providing written disclosure of the matters described in subparagraphs a-g, above. The individual shall not be required to identify the value of any interest held in any business or real estate; nor the value of any income or compensation received; nor the amount of any loan. The disclosure form described above shall be filed annually by January 31 of each year.

Section 3: No Public Official shall vote or otherwise take action with respect to any situation in which he or she has a conflict of interest and he or she shall refrain from attempting to influence any other Public Official's vote, action or inaction with respect to such situation, unless he or she has declared that conflict and stood down from his or her position for that issue.

Section 4: A Public Official shall refrain from voting or otherwise taking action regarding any application, issue or project, if such Public Official has a financial interest in the outcome of such application, issue or project, or if such Public Official will receive any compensation as a direct result of the approval of, or other action taken concerning, such application issue, or project.

Section 5: No Public Official shall use his or her position to gain favor from any member of the City staff.

Section 6: Public Officials shall not directly or indirectly accept a gift (or an economic benefit similar to a gift) greater than \$50.00 in value, including but not limited to non-monetary gifts such as food or drink, from or on behalf of any individual or entity who has an application, matter, issue or request pending before such Public Official (or from opponents of such application, matter, issue or request), or whom such Public Official knows will have an application, matter, issue or request pending before such Public Official in the foreseeable future. A transaction in which a Public Official purchases or sells a good or service in the regular course of the seller's business at a price and/or terms that are generally available to other members of the public does not involve a gift.

Section 7:

A. A quasi-judicial hearing or decision is one in which an applicant has applied for a right, benefit, or permit from the City which can only be granted by the City Council, a City Board, or the Zoning Administrator after consideration of the facts and circumstances and the applicable law and City ordinances. The term includes such matters as an application for a condition use permit,

zone change, preliminary or final plat approval, and other land use applications that are considered by the City Council, or the Zoning Administrator. The term also includes applications for variances, and similar applications, that are considered by the Board of Adjustment.

B. The following guidelines exist to (1) insure that all quasi-judicial hearings and decisions are conducted fairly and openly, and (2) insure public confidence in the City's decision-making processes. The Mayor and City Council shall comply with the following rules and guidelines. All other individuals and Boards that make quasi-judicial decisions, including those described in Section 7(A) above, are encouraged to comply with subparagraphs 1-4 below, when it is reasonable and convenient to do so, and shall comply with subparagraphs 5-6 below.

- 1) Once the Public Official knows that an application has been filed, he or she shall refrain from meeting with or otherwise discussing the merits of the application with the applicant and his or her representatives and with individuals who support or oppose the application unless the circumstances and substance of the contact is fully disclosed at the next public meeting on the subject.
- 2) To the best of the Public Official's ability, he or she shall consider only that information and opinion that is openly expressed, or provided in writing, at the meeting or hearing that is held for the purpose of considering the application. If a Public Official receives unsolicited written information prior to the meeting or hearing at which the application will be considered, a copy of such written information shall be provided to staff and all other decision-makers prior to or at such meeting or hearing, and the written information shall be publicly identified prior to any decision. If the meeting or hearing is continued or the issue tabled, such Public Official shall refrain from soliciting or receiving any further information or opinion (other than from staff), except at a subsequent meeting or hearing held for that purpose.
- 3) It is appropriate to review all written material that is a part of the application or a staff report, or that is received from the applicant or from members of the public and distributed to all decision-makers prior to or at the meeting or hearing held to consider the application. It is appropriate to ask questions of staff prior to the meeting or hearing in order to clarify facts or law.
- 4) If the Public Official deems it advisable to visit or inspect the site, such visit or inspection shall not occur in the presence of the applicant, or an opponent,

or his or her representative unless it is fully disclosed at the next meeting, or it is the respective board's means of conducting business, as approved by City Council.

- 5) If because of bias, the Public Official has a pre-conceived and unalterable view of what the outcome should be without regard to the information or opinions that will be presented at the meeting or hearing, then the Public Official shall abstain from voting, from taking any action, and from attempting to influence another Public Official's vote or action with respect to such application.
- 6) If a Public Official has a personal or financial interest in the outcome of a type that would require abstention under State law or under this policy, then such individual shall abstain from voting, from taking action, and from attempting to influence another Public Official's vote or action.

Section 8: Nothing contained herein shall preclude a Public Official from participating as a member of the public in any public meeting or hearing.

Section 9: If the City Council concludes that it is likely that there has been a violation of Article 2, Chapter 2, Part 1, MCA, it shall refer such matter to the Flathead County Attorney. If the City Council based on a written complaint of a violation of this policy, concludes that there has been a violation of this policy, it shall prepare a written report detailing such violation and the facts, circumstances, and evidence supporting its conclusion, and shall impose one or more of the following sanctions:

- 1) Written reprimand by City Council Resolution;
- 2) Written censure by City Council Resolution;
- 3) Written request, by City Council Resolution, that the individual resign from City elective office.