CITY OF
MILACA Minnesota
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PERSONNEL POLICY

PLAN B GOVERNMENT

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POLICY: **ARTICLE 1 - INTRODUCTION**

ADOPTED:
EFFECTIVE:
REVISED:

Section 1.01 Purpose

It shall be the purpose of these Personnel Policies to establish a uniform and equitable system of municipal personnel administration for all employees of the City of Milaca. These Personnel Policies are intended and designed to provide a tool for management, and not as a part of, or an amendment to any past, present or future employment contract of any officer or employee of the City of Milaca, or any other person to whom these Personnel Policies apply. They should not be construed as contract terms for any city employees. No supervisor or city representative has any authority to enter into any agreement for employment for any specific period of time, or to make any agreement contrary to this provision.

Nothing in this Personnel Handbook, or in other city policies which may be communicated to the employee, constitutes a contract of employment for any city employee, that all employment is at-will, and, as such, employment may be terminated by the city at any time, with or without cause. Only the city council or city manager has the right to alter the "at will" agreement.

The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the city. These policies supersede all previous personnel policies. As an employee, you are responsible for complying with current city policy at all times. Except where noted otherwise, the city manager or his/her designee is charged with ensuring compliance with these personnel policies.

The city shall recruit and select the most qualified persons for positions in the city's service. The city shall pursue a policy in the areas of recruitment and selection to insure open competition, to provide equal employment opportunity and to prohibit discrimination because of race, color, creed, religion, sex, national origin, marital status, age, status with regard to public assistance, disability, or other non-job-related factors.

The city is committed to providing reasonable accommodations to employees and applicants with qualified disabilities in accordance with all federal, state and local laws and regulations. If any employee or applicant has a need for an accommodation, he or she should contact the city manager.

Just and equitable incentives and conditions of employment shall be established and maintained to promote effectiveness and economy in the operation of the city government.

Positions having the same duties and responsibilities shall be classified and compensated on a uniform basis.

Good employee morale shall be promoted by consideration of the rights and interests of employees consistent with the best interests of the public and the city government.

Tenure of employees shall be subject to proper conduct, the satisfactory performance of work, the availability of work, and the availability of funds.

Section 1.02 Scope

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

1. Elected officials
2. City attorney
3. Members of city boards, commissions, and committees
4. Consultants and contractors
5. City Manager
6. Employees covered by formal labor contracts with the city shall be exempt from those provisions of this personnel policy which are in conflict with labor contract provisions and such employees shall be limited to the benefits provided in such labor contracts.

If any specific provisions of the personnel policies conflict with any current union agreement or civil service rules, the union agreement or civil service rules will prevail. Union employees are encouraged to consult their collective bargaining agreement first for information about their employment conditions. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

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

Section 1.03 EEO Policy Statement

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

Section 2.01 Data Practices Advisory

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

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

Section 2.02 Media Requests

All city employees have a responsibility to help communicate accurate and timely information to the public in a professional manner. Requests for private data or information outside of the scope of an individual's job duties should be routed to the appropriate department or to the data practices authority.

Any employee who identifies a mistake in reporting should bring the error to the city manager or other appropriate staff. Regardless of whether the communication is in the employee's official city role or in a personal capacity, employees must comply with all laws related to trademark, copyright, software use, etc.

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

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

   If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the city manager. An appropriate response would be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and

submit your request to the appropriate person, who will get back to you as soon as he/she can." Then ask the media representative's name, questions, deadline, and contact information.

All news releases concerning city personnel will be the responsibility of the city manager.

When/if the city manager authorizes a staff person to communicate on behalf of the city in interviews, publications, news releases, on social media sites, and related communications, employees must:

1. Identify themselves as representing the city. Account names on social media sites must be clearly connected to the city and approved by the city manager.
2. Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: "The city finished street cleaning on 16 streets in the northwest corner of the city this past week" instead of "The city is doing a great job with street cleaning this year!" Corrections must be issued when needed.
3. Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the city's Facebook page: "My family visited Hill Park this weekend and really enjoyed the new band shelter."
4. Employees who have been approved to use social media sites on behalf of the city should seek assistance from the city manager on this topic.
5. Notify the city manager if they will be using their personal technology (cell phones, home computer, cameras, etc.) for city business. Employees should be aware data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

Section 2.03 Personal Communications and Use of Social Media and Code of Conduct

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

The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

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

    a. (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
3. Remember what you write or post cannot easily be undone. It may also be spread to a larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your
    a. boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
4. The city expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such
    a. conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race (including traits associated with race, including, but not limited to, hair texture and hairstyles such as braids, locs and twists) national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
5. If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the city, it would be best to identify yourself and use a disclaimer such as, "These are my own opinions and do not represent those of the City of Milaca."
6. City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
7. Personal social media account name or email names should not be tied to the city.

Section 3.01 Conduct as a City Employee

In accepting city employment, employees become representatives of the city and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of the City of Milaca. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

Honesty is an important organizational attribute to our city. Therefore, any intentional misrepresentation of facts or falsification of records, including personnel records, medical records, leaves of absence documentation or the like, will not be tolerated. Further, dishonesty in city positions may preclude workers from effectively performing their essential job duties. Any violations will result in corrective action, up to and including termination.

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

1. Perform assigned duties to the best of their ability at all times.
2. Render prompt and courteous service to the public at all times.
3. Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
4. Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
5. Report any and all unsafe conditions to the immediate supervisor.
6. Maintain good attendance while meeting the goals set by an employee's supervisor.
7. Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication and compassion.

Section 3.02 Attendance & Absence

The operations and standards of service in the City of Milaca requires employees be at work unless valid reasons warrant absence, or an employee has a position approved by the city manager to work remotely. See Article 6 Remote Work from Home.

In order for a team to function efficiently and effectively, employees must fully understand the goals set for them and the time required to be on the job. Understanding attendance requirements is an essential function of every city position.

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

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

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

For budgetary and confidentiality reasons, non-exempt employees (eligible for overtime pay) are not authorized to take work home.

Section 3.03 Conflict of Interest

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

Section 3.04 Falsification of Records

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

Section 3.05 Whistleblower Protections

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

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

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

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

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

Section 3.06 Personal Telephone Calls

Personal telephone calls are to be made or received only when truly necessary (e.g., family or medical emergency). They are not to interfere with city work and are to be completed as quickly as possible. No personal long-distance calls are allowed by the employee.

Section 3.07 Political Activity

City employees have the right to express their views and to pursue legitimate involvement in the political system.

Any city employee who shall become a candidate for any elective public office of the City of Milaca shall automatically be given a leave of absence without pay until they are no longer a candidate for office, and if elected, such employee shall resign upon taking office.

No employee of the city shall directly or indirectly, during their hours of employment, solicit or receive funds, or at any time use their authority or official influence to compel any city employee to apply for

membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity.

This section shall not be construed to prevent any employee from becoming or continuing to be a member of a political club or organization or from attendance at a political meeting or from enjoying entire freedom from all interference in casting their vote for the candidate of their choice.

Employees shall comply with all state and federal laws governing the political activity of local government employees, including but not limited to the Hatch Act, and Minnesota Statutes 43A.

Section 3.08 Smoking

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

Section 4.01 Access to and Use of City Property

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

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

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

Section 4.02 City-Owned Vehicles

Public Works employees will be allowed to take city vehicles home to respond to public works emergencies/incidents only during the week that they are scheduled to be on-call. The city's LMCIT liability coverage on the vehicle will cover the employee to drive a city vehicle provided the use is within the scope of what the city has authorized. The on-call use of city vehicles is only for the Public Works Department when they are scheduled to be on-call. LMCIT will also cover the city for any liability the city incurs resulting from the use of the vehicle. It's especially important the employee understands the following:

1. When responding to a public works emergency/incident while on-call, the vehicle may only be
2. driven to and from the emergency/incident site.
3. The city does not allow any personal use of the city vehicle.
4. Family members are not allowed to drive or ride in the city vehicle.
5. The employee is expected to obey all traffic laws while operating the city vehicle.
6. The employee must not operate the vehicle after any consumption of alcohol or controlled substances.

Failure to adhere to this policy will result in disciplinary action being taken. This policy must remain in every city-owned vehicle.

Section 4.03 City Owned Computers/Computer Use

General Information

This policy serves to protect the security and integrity of the City's electronic communication and information system by educating employees about appropriate and safe use of available technology resources. Portions of this policy reflect the Criminal Justice Information Systems (CJIS) Policy as set forth by the Federal Bureau of Investigation (FBI). This policy will be updated in accordance with applicable CJIS Policy changes as published by the FBI.

This policy applies to all City employees and other non-employees, including, without limitation, contractors unless otherwise noted.

Computers and related equipment used by City employees are the property of the City. This property includes, but is not limited to, hardware, software, email messages, data files and voicemail. The City reserves the right to inspect, without notice, all data, emails, files, settings, or any other aspect of a City-owned computer or related system, including personal information created or maintained by an employee. The City may conduct inspections on an as-needed basis as determined by the City Administrator.

Beyond this policy, the City's Technology Services Manager may distribute information regarding precautions and actions needed to protect City systems; all employees are responsible for reading and following the guidance and directives in these communications.

Compliance

Employees who violate this policy may be subject to appropriate disciplinary action up to and including discharge as well as both civil and criminal penalties. Non-employees, including, without limitation, contractors, may be subject to termination of contractual agreements, denial of access to IT resources, and other actions as well as both civil and criminal penalties.

Inappropriate Use of City Technology

Employees should not use City technology for any purpose that could reflect negatively on the City. The following is a list of inappropriate uses of the City's technology which may result in disciplinary action up to and including a dismissal. This is not a complete list of inappropriate uses. If an employee does not know whether a particular use would be allowed under this policy, they should check with their supervisor or the Technology Services Manager.

1. Displaying, printing, or transmitting material that contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material.
2. Displaying, printing, or transmitting material that violates City regulations prohibiting sexual harassment.
3. Using the City's computer system or software or allowing others to use it for personal profit, commercial product advertisement, or partisan political purposes.
4. Using e-mail to solicit for commercial ventures, or charitable, religious, or political causes, with the exception of charitable campaign drives sponsored by the City.

5. Inappropriately sharing your user ID or password to allow an individual to obtain information to which they normally would not have access.
6. Deliberately damaging or disrupting a computer system (hardware or software) or intentionally attempting to "crash" network systems or programs.
7. Attempting to gain unauthorized access to internal or external computer systems.
8. Attempting to decrypt system or user passwords.
9. Unauthorized copying of system files or software programs.

Personal Use

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

Reasonable, incidental personal use of City computers and software (e.g., word processing, spreadsheets, email, Internet, etc.) is allowed but should never preempt or interfere with work. All use of City computers and software, including personal use, must adhere to provisions in this policy, including the following:

1. Employees shall not connect personal peripheral tools or equipment (such as printers, digital cameras, disks, USB drives, or flash cards) to City-owned systems, without prior approval from the Technology Services Manager. If permission to connect these tools/peripherals is granted, the employee must follow provided directions and procedures for protecting the City's computer network.

2. Personal files should not be stored on City computer equipment. This included personal media files, including but not limited to mp3 files, wav files, movie files, iTunes files, or any other file created by copying a music CD, DVD, or files from the Internet. The Technology Services Manager will delete these types of files if found on the network, computers, or other City-owned equipment. Exceptions are recordings that the City has created or purchased.

3. City equipment or technology shall not be used for personal business interests, for-profit ventures, political activities, or other uses deemed by the City Administrator to be inconsistent with City activities. If there is any question about whether a use is appropriate, it should be forwarded to City Administrator for a determination.

Hardware

In general, the City will provide the hardware required for an employee to perform their job duties. Requests for new or different equipment should be made to your supervisor/Department Head, who will forward the request to Technology Services Manager.

The City will not supply laptop computers based solely on the desire of employees to work offsite. Laptops will only be issued to employees who: travel frequently and require the use of a full computer while traveling; regularly use their laptop offsite; require a laptop for access to special software or systems; and/or have a documented business need for a laptop.

Only City staff may use City computer equipment. Use of City equipment by family members, friends, or others is strictly prohibited.

Employees are responsible for the proper use and care of City-owned computer equipment. City computer equipment must be secured while off City premises; do not leave computer equipment in an unlocked vehicle or unattended at any offsite facility. Computer equipment should not be exposed to extreme temperature or humidity. If a computer is exposed to extreme heat, cold, or humidity, it should be allowed to achieve normal room temperature and humidity before being turned on.

Telephones

The City Administrator may determine that some employees carry or use cellular telephones because of the nature of the work. Employees are responsible for all calls made or retrieved while the cellular phone is assigned or they are in possession of a cellular telephone. Employees may use cellular telephones for personal calls on an occasional basis for important calls. Employees may not use City telephones to conduct commercial business or any activity which may cause the perception of misuse. Employees are responsible for any charges resulting from unauthorized or personal use of cellular telephones.

Employees may have personal cellular telephones; however, they may only be used for emergencies or during break or lunch periods. Employees may not use personal telephones to conduct commercial business during their work day.

Any violation of this policy may result in loss of telephone use by the employee, along with other disciplinary procedures.

Checking out Equipment

When employees check out portable equipment, such as laptop computers, they are expected to provide appropriate “common sense” protection against theft, breakage, environmental damage, and other risks. An employee who fails to exercise “common sense” protection may be subject to discipline, including the cost of replacement or repair. Desktop computers and attached devices are not to be removed from City buildings without authorization.

Software

In general, the City will provide the software required for an employee to perform their job duties. Requests for new or different software should be made to your supervisor/Department Head, who will forward the request to the Technology Services Manager.

Employees shall not download or install any software on their computer without the prior approval from the Technology Services Manager. Exceptions to this include updates to software approved by Information Technology such as Microsoft updates, or other productivity software updates. The Technology Services Manager may, without notice, remove any unauthorized programs or software, equipment, downloads, or other resources.

Electronic Mail

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

Employee emails (including those that are personal in nature) may be considered public data for both e-discovery and information requests and may not be protected by privacy laws. Email may also be monitored as directed by City authorized staff and without notice to the employee.

Employees must adhere to these email requirements:

1. Never transmit an email that you would not want your supervisor, other employees, city officials, or the media to read or publish (e.g., avoid gossip, personal information, swearing, etc.).
2. Use caution or avoid corresponding by email regarding confidential matters (e.g., letters of reprimand, correspondence with attorneys, medical information).
3. Do not open email attachments or links from an unknown sender. Delete junk or "spam" email without opening it if possible. Do not respond to unknown senders.
4. Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.

Electronic Calendars

A shared calendar environment is provided as part of the City's email software program. All employees are required to keep their electronic calendar up to date and, at a minimum, must grant all staff the ability to view their calendar at the basic level. Employees may elect to share all details of their calendar at their discretion. Supervisors/Department Heads should determine if others may schedule meetings on their behalf in their calendars.

Instant Messaging

Due to data retention concerns, Instant Messaging (IM) is only allowed for transitory discussions and should be deleted after use. The City only allows IM via Microsoft Teams. Employees are not allowed to use IM as a mechanism for personal communication through the City's computer network or when using City equipment, and are not allowed to download or install any other IM software package on their City computer.

Personal Devices

Employees should not use their own equipment to read or compose email or other City data as governed in this policy. Employees understand that by connecting their personal equipment to the City's email server, their personal devices could be searched during an e-discovery or other court-ordered scenario, and agree to grant access to or temporarily surrender their personal devices should such a situation arise.

Internet

The following considerations apply to all uses of the Internet:

1. Reasonable personal use of the Internet is permitted. Employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races, or religions. If you are unsure whether a site may include inappropriate information, do not visit it.
2. If an employee's use of the Internet is compromising the integrity of the City's network, Technology Services staff may temporarily restrict that employee's access to the Internet. If Technology Services staff does restrict access, they will notify the employee, HR, and the employee's supervisor/Department Head as soon as possible, and work with the employee and manager to rectify the situation.

3. The City may monitor or restrict any employee's use of the Internet without prior notice, as deemed appropriate by the employee's supervisor/Department Head in consultation with the Technology Services Manager.

Data Retention

Electronic data should be stored and retained in accordance with the City's records retention schedule.

Storing and Transferring Files

If you are unsure whether an email or other file is a government record for purposes of records retention laws or whether it is considered protected or private, check with your supervisor/Department Head. If you are unsure how to create an appropriate file structure for saving and storing electronic information, contact the Technology Services Manager.

Employees must adhere to these requirements when transferring and storing electronic files:

1. All electronic files must be stored on identified network drives and folder locations. The City will not back up documents stored on local computer hard drives, and holds no responsibility for recovery of documents on local computer hard drives should they fail. Files may be temporarily stored on a laptop hard drive when an employee is traveling/offsite; however, the files should be copied to the network as soon as possible.
2. Electronic files, including emails and business-related materials created on an employee's home or personal computer for City business, must be transferred to and stored in designated locations on the City's network. City-related files should not be stored on an employee's personal computer, unless otherwise defined in this policy.
3. All removable storage media (e.g., CD-ROM, flash or USB drive, or other storage media) must be verified to be virus-free by Technology Services before being connected to City equipment.
4. Email that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network for storage.
5. Electronic files or emails that may be classified as protected or private information should be stored in a location on the City's network that is properly secured.
6. Any files considered private or confidential should not be stored anywhere other than the City's network. If there is a need to take confidential information offsite, it must be stored on encrypted media approved by the Technology Services Manager.

Security

Passwords

Employees are responsible for maintaining computer/network passwords and must adhere to these requirements:

1. Passwords must be at least twenty characters long and include at least three of the following: lowercase character; uppercase character; and a number or non-alpha-numeric character (e.g., *, &, %, etc.). (Example: J0yfu11y!) Password requirements are based on the FBI CJIS policy and may be changed as necessary, as determined by the Technology Services Manager.

2. Passwords must be provided to the Technology Services Manager when requested. Failure to provide the password may result in employee disciplinary action.

3. Passwords should not be shared with or told to other staff. If it is necessary to access an employee's computer when he or she is absent, contact your supervisor or the City Administrator; the Technology Services Manager will not provide access to staff accounts without approval of the City Administrator.

4. Passwords should not be stored in any location on or near the computer, or stored electronically such as in a cell phone or other mobile device.

5. Employees must change passwords every 365 days when prompted, or on another schedule as determined by the Technology Services Manager.

6. Remembering passwords is the responsibility of the employee. Technology Services staff will not keep a plain-text record of employee's passwords.

Network access

Non-City-owned computer equipment used in the City's building should only use the public wireless connection to the Internet. Under no circumstances should any non-City-owned equipment be connected to the City's private computer network. Exceptions may be granted by the Technology Services Manager.

Remote Access to the Network

Examples of remote access include, but are not limited to: Outlook Web Access (web mail), virtual private network (VPN), Windows Remote Desktop, and Windows Terminal Server connections. While connected to City computer resources remotely, all aspects of the City's Computer Use Policy will apply, including the following:

1. Remote access to the City's network requires a request from a supervisor and approval from the Technology Services Manager. Remote access privileges may be revoked at any time by an employee's supervisor/Department Head.

2. If remote access is from a non-City-owned computer, updated anti-virus software must be installed and operational on the computer equipment, and all critical operating system updates must be installed prior to connecting to the City network remotely. Failure to comply may result in the termination of remote access privileges.

3. Recreational use of remote connections to the City's network is strictly forbidden. An example of this would be a family member utilizing the City's cellular connection to visit websites.

4. Private or confidential data should not be transmitted over an unsecured wireless connection. Wireless connections are not secure and could pose a security risk if used to transmit City passwords or private data while connecting to City resources. Wireless connections include those over open wireless access points, regardless of the technology used to connect.

Auditing and Accountability

1. EVENT LOGGING

The City of Milaca shall:

a. Identify the types of events that the system is capable of logging in support of the audit function: authentication, file use, user/group management, events sufficient to establish what occurred, the sources of events, outcomes of events, and operational transactions (e.g., NCIC, III).
b. Coordinate the security audit function with other City of Milaca entities requiring audit.
c. Provide a rationale for why the auditable events are deemed to be adequate to support after-the-fact investigations of security incidents.
d. Determine that the following events are to be audited within the information system:
   1. System log-on attempts
   2. Attempts to use:
      a. Access permission on a user account, file, directory, or other system resource;
      b. Create permission on a user account, file, directory, or other system resource;
      c. Write permission on a user account, file, directory, or other system resource;
      d. Delete permission on a user account, file, directory, or other system resource;
      e. Change permission on a user account, file, directory, or other system resource.

   3. Attempts to change account passwords
   4. Actions by privileged accounts (i.e., root, Oracle, DBA, admin, etc.)
   5. Attempts for users to:
      a. Access the audit log file;
      b. Modify the audit log file;
      c. Destroy the audit log file.

2. CONTENT OF AUDIT RECORDS

The City of Milaca shall:

a. Ensure that audit records contain information that establishes the following:
   a. What type of event occurred.
   b. When the event occurred.
   c. Where the event occurred.
   d. Source of the event.
   e. Outcome of the event.
   f. Identity of any individuals, subjects, or objects/entities associated with the event.
b. Generate audit records containing the following additional information:
   a. Session, connection, transaction, and activity duration;
   b. Source and destination addresses;
   c. Object or filename involved; and
   d. Number of bytes received and bytes sent (for client-server transactions) in the audit records for audit events identified by type, location, or subject.
   e. The III portion of the log shall clearly identify:
      1. The operator
      2. The authorized receiving agency
      3. The requestor
      4. The secondary recipient
c. Limit personally identifiable information contained in audit records to the following elements identified in the privacy risk assessment: minimum PII necessary to achieve the purpose for which it is collected.

3. AUDIT STORAGE CAPACITY

The City of Milaca shall:

a. Allocate audit log storage capacity to accommodate the collection of audit logs to meet retention requirements.

4. RESPONSE TO AUDIT PROCESSING FAILURES

The City of Milaca shall:

a. Alert City of Milaca personnel with audit and accountability responsibilities and system/network administrators within one (1) hour in the event of an audit logging process failure.
b. Take the following additional actions: restart all audit logging processes and verify system(s) are logging properly.

5. AUDIT REVIEW, ANALYSIS, AND REPORTING

The City of Milaca shall:

a. Review and analyze information system audit records weekly for indications of inappropriate or unusual activity and the potential impact of the inappropriate or unusual activity.
b. Report findings to City of Milaca personnel with audit review, analysis, and reporting responsibilities and organizational personnel with information security and privacy responsibilities.
c. Integrate audit record review, analysis, and reporting processes using automated mechanisms.
d. Analyze and correlate audit records across different repositories to gain organization-wide situational awareness.

6. AUDIT RECORD REDUCTION AND REPORT GENERATION

The City of Milaca shall:

a. Provide an audit reduction and report generation capability that:
    i. Supports on-demand audit review, analysis, and reporting requirements and after-the-fact.
    ii. Does not alter the original content or time ordering of audit records.
b. Provide and implement the capability to process, sort, and search audit records for events of interest based on the following content: information included in FBI CJIS Policy, Section 5.4, AU-3.

7. TIME STAMPS

The City of Milaca shall:

a. Use internal system clocks to generate time stamps for audit records.
b. Record time stamps for audit records that can be mapped to Coordinated Universal Time (UTC) or Greenwich Mean Time (GMT) or that include the local time offset as part of the time stamp.

8. PROTECTION OF AUDIT INFORMATION

The City of Milaca shall:

a. Protect audit information and audit logging tools from unauthorized access, modification, and deletion.
b. Alert organizational personnel with audit and accountability responsibilities, organizational personnel with information security and privacy responsibilities, and system/network administrators upon detection of unauthorized access, modification, or deletion of audit information.

c. Authorize access to management of audit logging functionality to only City of Milaca personnel with audit and accountability responsibilities, City of Milaca personnel with information security and privacy responsibilities, and system/network administrators.

9. AUDIT RECORD RETENTION
   The City of Milaca shall:
   a. Retain audit records for a minimum of one (1) year or until it is determined they are no longer needed for administrative, legal, audit, or other operational purposes to provide support for after-the-fact investigations of incidents and to meet regulatory and organizational information retention requirements.

10. AUDIT GENERATION
    The City of Milaca shall:
    a. Provide audit record generation capability for the event types the system is capable of auditing as defined in FBI CJIS Policy, Section 5.4, AU-2a on all systems generating required audit logs.
    b. Allow City of Milaca personnel with audit record generation responsibilities, City of Milaca personnel with information security and privacy responsibilities, and system/network administrators to select which auditable events are to be audited by specific components of the information system.
    c. Generate audit records for the events with the content as defined in FBI CJIS Policy, Section 5.4, AU-2c that include the audit record content defined in FBI CJIS Policy, Section 5.4, AU-3.

Access Control

1. ACCOUNT MANAGEMENT
   The City of Milaca shall:
   a. Identify and select the following types of information system accounts to support organizational missions and business functions: individual, shared, group, system, guest/anonymous, emergency, developer/manufacturer/vendor, temporary, and service.
   b. Assign account managers.
   c. Require conditions for group and role membership.
   d. Specify authorized users of the information system, group and role membership, and access authorizations (i.e., privileges) and other attributes (as required) for each account. (See FBI CJIS Security Policy for a complete list of attributes.)
   e. Require approvals by City of Milaca personnel with account management responsibilities for requests to create accounts.
   f. Create, enable, modify, disable, and remove information system accounts in accordance with approved procedures.
   g. Monitor the use of accounts.
   h. Notify account managers when accounts are no longer required, when users are terminated or transferred, and when individual information system usage or need-to-know changes.
   i. Authorize access to the system based on:
      a. A valid access authorization
      b. Intended system usage
      c. Attributes as listed in FBI CJIS Policy, Section 5.5, AC-2(d)(3)

   j. Review accounts for compliance with account management requirements at least annually.
   k. Establish and implement a process for changing shared or group account authenticators (if deployed) when individuals are removed from the group.
   l. Align account management processes with personnel termination and transfer processes.

m. Support the management of system accounts using automated mechanisms including email, phone, and text notifications.
n. Automatically remove temporary and emergency accounts within 72 hours.
o. Disable accounts within one (1) week when the accounts:
    a. Have expired.
    b. Are no longer associated with a user or individual.
    c. Are in violation of organizational policy.
    d. Have been inactive for 90 calendar days.

p. Automatically audit account creation, modification, enabling, disabling, and removal actions.
q. Require that users log out when a work period has been completed.
r. Disable accounts of individuals within 30 minutes of discovery of direct threats to the confidentiality, integrity, or availability of CJI.

2. ACCESS ENFORCEMENT
The City of Milaca shall:
a. Enforce approved authorizations for logical access to information and system resources in accordance with applicable access control policies.
b. Provide automated or manual processes to enable individuals to have access to elements of their personally identifiable information.

3. INFORMATION FLOW ENFORCEMENT
The City of Milaca shall:

a. Enforce approved authorizations for controlling the flow of information within the system and between connected systems by preventing CJI and other controlled information from being transmitted unencrypted across the public network, blocking outside traffic that claims to be from within the agency, and not passing any web requests to the public network that are not from the agency-controlled or internal boundary protection devices.

4. SEPARATION OF DUTIES
The City of Milaca shall:
a. Identify and document separation of duties based on specific duties, operations, or information systems, as necessary, to mitigate risk to CJI and other controlled information.
b. Define system access authorizations to support separation of duties.

5. LEAST PRIVILEGE
The City of Milaca shall:
a. Employ the principle of least privilege, allowing only authorized access for users (or processes acting on behalf of users) that are necessary to accomplish assigned City of Milaca tasks.
b. Authorize access for personnel including security administrators, system and network administrators, and other privileged users with access to system control, monitoring, or administration functions (e.g., system administrators, information security personnel, maintainers, system programmers, etc.) to:
    a. Established system accounts, configured access authorizations (i.e., permissions, privileges), set events to be audited, set intrusion detection parameters, and other security functions; and
    b. Security-relevant information in hardware, software, and firmware.

c. Require that users of system accounts (or roles) with access to privileged security functions or security-relevant information (e.g., audit logs), use non-privileged accounts or roles, when accessing non-security functions.
d. Restrict privileged accounts on the system to privileged users.
e. Review annually the privileges assigned to non-privileged and privileged users to validate the need for such privileges.
f. Reassign or remove privileges, if necessary, to correctly reflect organizational mission and business needs.
g. Log the execution of privileged functions.
h. Prevent non-privileged users from executing privileged functions.

6. UNSUCCESSFUL LOGON ATTEMPTS

The City of Milaca shall ensure that the information system:

a. Enforce a limit of consecutive invalid logon attempts by a user during a 15-minute time period.
b. Automatically lock the account or node until released by an administrator when the maximum number of unsuccessful attempts is exceeded

7. SYSTEM USE NOTIFICATION

The City of Milaca shall ensure that the information system:

a. Displays to users an approved system uses notification message or banner before granting access to the system that provides privacy and security notices consistent with applicable state and federal laws, directives, policies, regulations, standards, and guidance and states informing that:
    i. Users are accessing a restricted information system.
    ii. Information system usage may be monitored, recorded, and subject to audit.
    iii. Unauthorized use of the information system is prohibited and subject to criminal and civil penalties.
    iv. Use of the information system indicates consent to monitoring and recording.

b. Retains the notification message or banner on the screen until users acknowledge the usage conditions and take explicit actions to log on to or further access the information system.
c. For publicly accessible systems, the IT Department shall ensure that the information system:
    i. Displays system use information consistent with applicable laws, executive orders, directives, regulations, policies, standards, and guidelines, before granting further access.
    ii. Displays references, if any, to monitoring, recording, or auditing that are consistent with privacy accommodations for such systems that generally prohibit those activities.
    iii. Includes a description of the authorized uses of the system.

8. DEVICE LOCK

The City of Milaca shall:

a. Prevent further access to the system by initiating a session lock after a maximum of 30 minutes of inactivity or upon receiving a request from a user.
b. Retain the session lock until the user re-establishes access using established identification and authentication procedures.

c. Conceal, via the session lock, information previously visible on the display with a publicly viewable image.

9. SESSION TERMINATION
The City of Milaca shall:
   a. Automatically terminate a user session after a user has been logged out.

10. PERMITTED ACTIONS WITHOUT IDENTIFICATION OR AUTHENTICATION
The City of Milaca shall:
   a. Identify user actions that can be performed on the information system without identification or authentication consistent with City of Milaca missions and business functions.
   b. Document and provide supporting rationale in the security plan for the information system, user actions not requiring identification or authentication.

11. REMOTE ACCESS
The City of Milaca shall:
   a. Establish and document usage restrictions, configuration/connection requirements, and implementation guidance for each type of remote access allowed.

   b. Authorize remote access to the information system prior to allowing such connections.
   c. Ensure that the information system monitors and controls remote access methods.
   d. Ensure that the information system implements cryptographic mechanisms to protect the confidentiality and integrity of remote access sessions.
   e. Ensure that the information system routes all remote accesses through authorized and managed network access control points.
   f. Authorize the execution of privileged commands and access to security-relevant information via remote access only in a format that provides assessable evidence and for the following needs: compelling operational needs.
   g. Document the rationale for such access in the security plan for the information system.

12. WIRELESS ACCESS
The City of Milaca shall:
   a. Establish usage restrictions, configuration/connection requirements, and implementation guidance for wireless access.
   b. Authorize wireless access to the information system prior to allowing such connections.
   c. Protect wireless access to the system using authentication of authorized users and agency-controlled devices, and encryption.
   d. Disable, when not intended for use, wireless networking capabilities embedded within system components prior to issuance and deployment.

13. ACCESS CONTROL FOR MOBILE DEVICES
The City of Milaca shall:
   a. Establish configuration requirements, connection requirements, and implementation guidance for organization-controlled mobile devices, to include when such devices are outside of controlled areas.
   b. Authorize the connection of mobile devices to City of Milaca systems.
   c. Employ full-device encryption to protect the confidentiality and integrity of information on full- and limited-feature operating system mobile devices authorized to process, store, or transmit CJI.

14. USE OF EXTERNAL SYSTEMS
    The City of Milaca shall:
    a. Establish terms and conditions, consistent with any trust relationships established with other organizations owning, operating, and/or maintaining external information systems, allowing authorized individuals to:
        i. Access the system from external systems.
        ii. Process, store, or transmit organization-controlled information using external systems.

    b. Prohibit the use of personally owned information systems including mobile devices (i.e., bring your own device [BYOD]) and publicly accessible systems for accessing, processing, storing, or transmitting restricted or controlled information, such as CJI.
    c. Permit authorized individuals to use an external system to access the system or to process, store, or transmit City of Milaca-controlled information only after:
        a. Verification of the implementation of controls on the external system as specified in the City of Milaca security and privacy policies and security and privacy plans; or
        b. Retention of approved system connection or processing agreements with the organizational entity hosting the external system.
    d. Restrict the use of organization-controlled portable storage devices by authorized individuals on external systems.

15. INFORMATION SHARING
    The City of Milaca shall:
    a. Enable authorized users to determine whether access authorizations assigned to a sharing partner match the information's access and use restrictions for as defined in an executed information exchange agreement
    b. Employ attribute-based access control (see FBI CJIS Policy, Section 5.5, AC-2(d)(3)) or manual processes as defined in information exchange agreements to assist users in making information sharing and collaboration decisions.

16. PUBLICLY ACCESSIBLE CONTENT
    The City of Milaca shall:
    a. Designate individuals authorized to make information publicly accessible.
    b. Train authorized individuals to ensure that publicly accessible information does not contain nonpublic information.
    c. Review the proposed content of information prior to posting onto the publicly accessible information system to ensure that nonpublic information is not included.
    d. Review the content on the publicly accessible information system for nonpublic information quarterly and remove such information, if discovered.

Identification and Authentication

1. IDENTIFICATION AND AUTHENTICATION
   City of Milaca shall:
   a. Uniquely identify and authenticate City of Milaca users and associate that unique identification with processes acting on behalf of City of Milaca users.
   b. Implement multifactor authentication for network access to privileged accounts.
   c. Implement multifactor authentication for network access to non-privileged accounts.

d. Implement replay-resistant authentication mechanisms for access to privileged and non-privileged accounts.
e. Accept and electronically verify Personal Identity Verification (PIV) credentials.

2. DEVICE IDENTIFICATION AND AUTHENTICATION
City of Milaca shall:
a. Uniquely identify and authenticate City of Milaca-managed devices before establishing network connections. In the instance of local connection, the device must be approved by the agency and the device must be identified and authenticated prior to connection to an agency asset.

3. IDENTIFIER MANAGEMENT
City of Milaca shall manage system identifiers by:
a. Receiving authorization from City of Milaca personnel with identifier management responsibilities to assign an individual, group, role, service, or device identifier.
b. Selecting an identifier that identifies an individual, group, role, service, or device.
c. Assigning the identifier to the intended individual, group, role, service, or device.
d. Preventing reuse of identifiers for one year.
e. Manage individual identifiers by uniquely identifying each individual as agency or nonagency.

4. AUTHENTICATOR MANAGEMENT
City of Milaca shall manage system authenticators by:
a. Verifying, as part of the initial authenticator distribution, the identity of the individual, group, role, service, or device receiving the authenticator.
b. Establishing initial authenticator content for authenticators defined by City of Milaca.
c. Ensuring that authenticators have sufficient strength of mechanism for their intended use.
d. Establishing and implementing administrative procedures for initial authenticator distribution, for lost/compromised or damaged authenticators, and for revoking authenticators.
e. Changing default authenticators prior to first use.
f. Change/refresh authenticators annually or when there is evidence of authenticator compromise.
g. Protecting authenticator content from unauthorized disclosure and modification.
h. Requiring individuals to take, and having devices implement, specific controls to protect authenticators.
i. Changing authenticators for group/role accounts when membership to those account changes.
j. AAL2 Specific Requirements.
k. Ensure authentication occurs by the use of either a multi-factor authenticator or a combination of two single-factor authenticators:

l. If the multi-factor authentication process uses a combination of two single-factor authenticators, then it SHALL include a Memorized Secret authenticator and a possession-based authenticator.
m. Cryptographic authenticators used at AAL2 SHALL use approved cryptography.
n. At least one authenticator used at AAL2 SHALL be replay resistant.
o. Communication between the claimant and verifier SHALL be via an authenticated protected channel.

p. Verifiers operated by government agencies at AAL2 SHALL be validated to meet the requirements of FIPS 140 Level 1.
q. Authenticators procured by government agencies SHALL be validated to meet the requirements of FIPS 140 Level 1.
r. If a device such as a smartphone is used in the authentication process, then the unlocking of that device (typically done using a PIN or biometric) SHALL NOT be considered one of the authentication factors.
s. If a biometric factor is used in authentication at AAL2, then the performance requirements stated in FBI CJIS Policy, Section 5.6, IA-5 m Biometric Requirements SHALL be met.
t. Reauthentication of the subscriber SHALL be repeated at least once per 12 hours during an extended usage session.
u. Reauthentication of the subscriber SHALL be repeated following any period of inactivity lasting 30 minutes or longer.
v. The CSP SHALL employ appropriately tailored security controls from the moderate baseline of security controls defined in the CJISSECPOL.
w. The CSP SHALL comply with records retention policies in accordance with applicable laws and regulations.
x. If the CSP opts to retain records in the absence of any mandatory requirements, then the CSP SHALL conduct a risk management process, including assessments of privacy and security risks to determine how long records should be retained and SHALL inform subscribers of that retention policy.
y. Memorized Secret Authenticators and Verifiers:
    a. Maintain a list of commonly-used, expected, or compromised passwords and update the list quarterly and when organizational passwords are suspected to have been compromised directly or indirectly.
    b. Require immediate selection of a new password upon account recovery.
    c. Allow user selection of long passwords and passphrases, including spaces and all printable characters.
    d. Employ automated tools to assist the user in selecting strong password authenticators.
    e. Enforce the following composition and complexity rules when agencies elect to follow basic password standards:
        i. Not be a proper name.
        ii. Not be the same as the User id.
        iii. Expire within a maximum of 90 calendar days.
        iv. Not be identical to the previous ten (10) passwords.
        v. Not be displayed when entered.
    f. If chosen by the subscriber, memorized secrets SHALL be at least 8 characters in length.
    g. If chosen by the CSP or verifier using an approved random number generator, memorized secrets SHALL be at least 6 characters in length.
    h. Truncation of the secret SHALL NOT be performed.
    i. Memorized secret verifiers SHALL NOT permit the subscriber to store a “hint” that is accessible to an unauthenticated claimant.
    j. Verifiers SHALL NOT prompt subscribers to use specific types of information (e.g., “What was the name of your first pet?”) when choosing memorized secrets.
    k. When processing requests to establish and change memorized secrets, verifiers SHALL compare the prospective secrets against a list that contains values known to be commonly used, expected, or compromised.

l. If a chosen secret is found in the list, the CSP or verifier SHALL advise the subscriber that they need to select a different secret.
m. If a chosen secret is found in the list, the CSP or verifier SHALL provide the reason for rejection.
n. If a chosen secret is found in the list, the CSP or verifier SHALL require the subscriber to choose a different value.
o. Verifiers SHALL implement a rate-limiting mechanism that effectively limits failed authentication attempts that can be made on the subscriber's account to no more than five.
p. Verifiers SHALL force a change of memorized secret if there is evidence of compromise of the authenticator.
q. The verifier SHALL use approved encryption when requesting memorized secrets in order to provide resistance to eavesdropping and MitM attacks.
r. The verifier SHALL use an authenticated protected channel when requesting memorized secrets in order to provide resistance to eavesdropping and MitM attacks.
s. Verifiers SHALL store memorized secrets in a form that is resistant to offline attacks.
t. Memorized secrets SHALL be salted and hashed using a suitable one-way key derivation function.
u. The salt SHALL be at least 32 bits in length and be chosen arbitrarily to minimize salt value collisions among stored hashes.
v. Both the salt value and the resulting hash SHALL be stored for each subscriber using a memorized secret authenticator.
w. If an additional iteration of a key derivation function using a salt value known only to the verifier is performed, then this secret salt value SHALL be generated with an approved random bit generator and of sufficient length.
x. If an additional iteration of a key derivation function using a salt value known only to the verifier is performed, then this secret salt value SHALL provide at least the minimum-security strength.
y. If an additional iteration of a key derivation function using a salt value known only to the verifier is performed, then this secret salt value SHALL be stored separately from the memorized secrets.

z. Look-Up Secret Authenticators and Verifiers:
a. CSPs creating look-up secret authenticators SHALL use an approved random bit generator to generate the list of secrets.
b. Look-up secrets SHALL have at least 20 bits of entropy.
c. If look-up secrets are distributed online, then they SHALL be distributed over a secure channel in accordance with the post-enrollment binding requirements in IA-5 'n' 17 through 25.
d. Verifiers of look-up secrets SHALL prompt the claimant for the next secret from their authenticator or for a specific (e.g., numbered) secret.
e. A given secret from an authenticator SHALL be used successfully only once.
f. If a look-up secret is derived from a grid (bingo) card, then each cell of the grid SHALL be used only once.
g. Verifiers SHALL store look-up secrets in a form that is resistant to offline attacks.
h. If look-up secrets have at least 112 bits of entropy, then they SHALL be hashed with an approved one-way function.
i. If look-up secrets have less than 112 bits of entropy, then they SHALL be salted and hashed using a suitable one-way key derivation function.

j. If look-up secrets have less than 112 bits of entropy, then the salt SHALL be at least 32 bits in length and be chosen arbitrarily to minimize salt value collisions among stored hashes.
k. If look-up secrets have less than 112 bits of entropy, then both the salt value and the resulting hash SHALL be stored for each look-up secret.
l. If look-up secrets that have less than 64 bits of entropy, then the verifier SHALL implement a rate-limiting mechanism that effectively limits the number of failed authentication attempts that can be made on the subscriber's account.
m. The verifier SHALL use approved encryption when requesting look-up secrets in order to provide resistance to eavesdropping and MitM attacks.
n. The verifier SHALL use an authenticated protected channel when requesting look-up secrets in order to provide resistance to eavesdropping and MitM attacks.

aa. Out-of-Band Authenticators and Verifiers:
a. The out-of-band authenticator SHALL establish a separate channel with the verifier in order to retrieve the out-of-band secret or authentication request.
b. Communication over the secondary channel SHALL be encrypted unless sent via the public switched telephone network (PSTN).
c. Methods that do not prove possession of a specific device, such as voice-over-IP (VoIP) or email, SHALL NOT be used for out-of-band authentication.
d. If PSTN is not being used for out-of-band communication, then the out-of-band authenticator SHALL uniquely authenticate itself by establishing an authenticated protected channel with the verifier.
e. If PSTN is not being used for out-of-band communication, then the out-of-band authenticator SHALL communicate with the verifier using approved cryptography.
f. If PSTN is not being used for out-of-band communication, then the key used to authenticate the out-of-band device SHALL be stored in suitably secure storage available to the authenticator application (e.g., keychain storage, TPM, TEE, secure element).
g. If the PSTN is used for out-of-band authentication and a secret is sent to the out-of-band device via the PSTN, then the out-of-band authenticator SHALL uniquely authenticate itself to a mobile telephone network using a SIM card or equivalent that uniquely identifies the device.
h. If the out-of-band authenticator sends an approval message over the secondary communication channel, it SHALL either accept transfer of a secret from the primary channel to be sent to the verifier via the secondary communications channel, or present a secret received via the secondary channel from the verifier and prompt the claimant to verify the consistency of that secret with the primary channel, prior to accepting a yes/no response from the claimant which it sends to the verifier.
i. The verifier SHALL NOT store the identifying key itself, but SHALL use a verification method (e.g., an approved hash function or proof of possession of the identifying key) to uniquely identify the authenticator.
j. Depending on the type of out-of-band authenticator, one of the following SHALL take place: transfer of a secret to the primary channel, transfer of a secret to the secondary channel, or verification of secrets by the claimant.
k. If the out-of-band authenticator operates by transferring the secret to the primary channel, then the verifier SHALL transmit a random secret to the out-of-band authenticator and then wait for the secret to be returned on the primary communication channel.
l. If the out-of-band authenticator operates by transferring the secret to the secondary channel, then the verifier SHALL display a random authentication secret

to the claimant via the primary channel and then wait for the secret to be returned on the secondary channel from the claimant's out-of-band authenticator.

m. If the out-of-band authenticator operates by verification of secrets by the claimant, then the verifier SHALL display a random authentication secret to the claimant via the primary channel, send the same secret to the out-of-band authenticator via the secondary channel for presentation to the claimant, and then wait for an approval (or disapproval) message via the secondary channel.
n. The authentication SHALL be considered invalid if not completed within 10 minutes.
o. Verifiers SHALL accept a given authentication secret only once during the validity period.
p. The verifier SHALL generate random authentication secrets with at least 20 bits of entropy.
q. The verifier SHALL generate random authentication secrets using an approved random bit generator.
r. If the authentication secret has less than 64 bits of entropy, the verifier SHALL implement a rate-limiting mechanism that effectively limits the number of failed authentication attempts that can be made on the subscriber's account as described in FBI CJIS Policy, Section 5.6, IA-5 l (3) through (4).
s. If out-of-band verification is to be made using the PSTN, then the verifier SHALL verify that the pre-registered telephone number being used is associated with a specific physical device.
t. If out-of-band verification is to be made using the PSTN, then changing the pre-registered telephone number is considered to be the binding of a new authenticator and SHALL only occur as described in FBI CJIS Policy, Section 5.6, IA-5 n (17) through (25).
u. If PSTN is used for out-of-band authentication, then the CSP SHALL offer subscribers at least one alternate authenticator that is not RESTRICTED and can be used to authenticate at the required AAL.
v. If PSTN is used for out-of-band authentication, then the CSP SHALL Provide meaningful notice to subscribers regarding the security risks of the RESTRICTED authenticator and availability of alternative(s) that are not RESTRICTED.
w. If PSTN is used for out-of-band authentication, then the CSP SHALL address any additional risk to subscribers in its risk assessment.
x. If PSTN is used for out-of-band authentication, then the CSP SHALL develop a migration plan for the possibility that the RESTRICTED authenticator is no longer acceptable at some point in the future and include this migration plan in its digital identity acceptance statement.

bb. OTP Authenticators and Verifiers:
    a. The secret key and its algorithm SHALL provide at least the minimum-security strength of 112 bits as of the date of this publication.
    b. The nonce SHALL be of sufficient length to ensure that it is unique for each operation of the device over its lifetime.
    c. OTP authenticators — particularly software-based OTP generators —SHALL NOT facilitate the cloning of the secret key onto multiple devices.
    d. The authenticator output SHALL have at least 6 decimal digits (approximately 20 bits) of entropy.
    e. If the nonce used to generate the authenticator output is based on a real-time clock, then the nonce SHALL be changed at least once every 2 minutes.
    f. The OTP value associated with a given nonce SHALL be accepted only once.

g. The symmetric keys used by authenticators are also present in the verifier and SHALL be strongly protected against compromise.
h. If a single-factor OTP authenticator is being associated with a subscriber account, then the verifier or associated CSP SHALL use approved cryptography to either generate and exchange or to obtain the secrets required to duplicate the authenticator output.
i. The verifier SHALL use approved encryption when collecting the OTP.
j. The verifier SHALL use an authenticated protected channel when collecting the OTP.
k. If a time-based OTP is used, it SHALL have a defined lifetime (recommended 30 seconds) that is determined by the expected clock drift — in either direction — of the authenticator over its lifetime, plus allowance for network delay and user entry of the OTP.
l. Verifiers SHALL accept a given time-based OTP only once during the validity period.
m. If the authenticator output has less than 64 bits of entropy, the verifier SHALL implement a rate-limiting mechanism that effectively limits the number of failed authentication attempts that can be made on the subscriber's account as described in FBI CJIS Policy, Section 5.6, IA-5 l (3) through (4).
n. If the authenticator is multi-factor, then each use of the authenticator SHALL require the input of the additional factor.
o. If the authenticator is multi-factor and a memorized secret is used by the authenticator for activation, then that memorized secret SHALL be a randomly chosen numeric secret at least 6 decimal digits in length or other memorized secret meeting the requirements of FBI CJIS Policy, Section 5.6, IA-5 (1)(a).
p. If the authenticator is multi-factor, then use of a memorized secret for activation SHALL be rate limited as specified in FBI CJIS Policy, Section 5.6, IA-5 l (3) through (4).
q. If the authenticator is multi-factor, then the unencrypted key and activation secret or biometric sample — and any biometric data derived from the biometric sample such as a probe produced through signal processing — SHALL be zeroized immediately after an OTP has been generated.
r. If the authenticator is multi-factor and is activated by a biometric factor, then that factor SHALL meet the requirements of FBI CJIS Policy, Section 5.6, IA-5 m, including limits on the number of consecutive authentication failures.
s. If the authenticator is multi-factor, the verifier or CSP SHALL establish, via the authenticator source, that the authenticator is a multi-factor device.
t. In the absence of a trusted statement that it is a multi-factor device, the verifier SHALL treat the authenticator as single-factor, in accordance with FBI CJIS Policy, Section 5.6, IA-5 (1) (d) (1) through (13).

cc. Cryptographic Authenticators and Verifiers (including single- and multi-factor cryptographic authenticators, both hardware- and software-based):
a. If the cryptographic authenticator is software based, the key SHALL be stored in suitably secure storage available to the authenticator application.
b. If the cryptographic authenticator is software based, the key SHALL be strongly protected against unauthorized disclosure by the use of access controls that limit access to the key to only those software components on the device requiring access.
c. If the cryptographic authenticator is software based, it SHALL NOT facilitate the cloning of the secret key onto multiple devices.
d. If the authenticator is single-factor and hardware-based, secret keys unique to the device SHALL NOT be exportable (i.e., cannot be removed from the device).

e. If the authenticator is hardware-based, the secret key and its algorithm SHALL provide at least the minimum-security length of 112 bits as of the date of this publication.
f. If the authenticator is hardware-based, the challenge nonce SHALL be at least 64 bits in length.
g. If the authenticator is hardware-based, approved cryptography SHALL be used.
h. Cryptographic keys stored by the verifier SHALL be protected against modification.
i. If symmetric keys are used, cryptographic keys stored by the verifier SHALL be protected against disclosure.
j. The challenge nonce SHALL be at least 64 bits in length.
k. The challenge nonce SHALL either be unique over the authenticator's lifetime or statistically unique (i.e., generated using an approved random bit generator).
l. The verification operation SHALL use approved cryptography.
m. If a multi-factor cryptographic software authenticator is being used, then each authentication requires the presentation of the activation factor.
n. If the authenticator is multi-factor, then any memorized secret used by the authenticator for activation SHALL be a randomly chosen numeric secret at least 6 decimal digits in length or other memorized secret meeting the requirements of FBI CJIS Policy, Section 5.6, IA-5 (1) (a).
o. If the authenticator is multi-factor, then use of a memorized secret for activation SHALL be rate limited as specified in FBI CJIS Policy, Section 5.6, IA-5 l (3) through (4).
p. If the authenticator is multi-factor and is activated by a biometric factor, then that factor SHALL meet the requirements of FBI CJIS Policy, Section 5.6, IA-5 m, including limits on the number of consecutive authentication failures.
q. If the authenticator is multi-factor, then the unencrypted key and activation secret or biometric sample — and any biometric data derived from the biometric sample such as a probe produced through signal processing — SHALL be zeroized immediately after an authentication transaction has taken place.

5. AUTHENTICATOR FEEDBACK
City of Milaca shall:
   a. Obscure feedback of authentication information during the authentication process to protect the information from possible exploitation and use by unauthorized individuals.

6. CRYPTOGRAPHIC MODULE AUTHENTICATION
City of Milaca shall:
   a. Implement mechanisms for authentication to a cryptographic module that meet the requirements of applicable laws, executive orders, directives, policies, regulations, standards, and guidelines for such authentication.

7. IDENTIFICATION AND AUTHENTICATION
City of Milaca shall:

   a. Uniquely identify and authenticate non-City of Milaca users or processes acting on behalf of non-City of Milaca users.
   b. Accept and electronically verify Personal Identity Verification-compliant credentials from other federal, state, local, tribal, or territorial (SLTT) agencies.
   c. Accept only external authenticators that are NIST-compliant; and document and maintain a list of accepted external authenticators.

d. Conform to the following profiles for identity management: Security Assertion Markup Language (SAML) or OpenID Connect.

8. RE-AUTHENTICATION
City of Milaca shall:

a. Require users to re-authenticate when: roles, authenticators, or credentials change, security categories of systems change, the execution of privileged functions occur, or every 12 hours.
b. Identify proof users that require accounts for logical access to systems based on appropriate identity assurance level requirements as specified in applicable standards and guidelines.
c. Resolve user identities to a unique individual.
d. Collect, validate, and verify identity evidence.
e. Require evidence of individual identification be presented to the registration authority.
f. Require that the presented identity evidence be validated and verified through agency-defined resolution, validation, and verification methods.

Configuration Management

1. BASELINE CONFIGURATION
The City of Milaca shall:

a. Develop, document, and maintain under configuration control, a current baseline configuration of the system.
b. Develop, document, and maintain a current and complete topological drawing depicting the interconnectivity of the agency network to criminal justice information systems and services
c. Review and update the baseline configuration and topological drawing of the system:
    a. At least annually
    b. When required due to security-relevant changes to the system and/or security incidents occur; and
    c. When system components are installed or upgraded.

d. Maintain the currency, completeness, accuracy, and availability of the baseline configuration of the system using automated mechanisms such as configuration management tools, hardware, software, firmware inventory tools, and network management tools.
e. Retain at least one (1) previous version of baseline configurations of the system to support rollback.
f. Issue devices (e.g., mobile devices) with CJISSECPOL compliant configurations to individuals traveling to locations that the organization deems to be of significant risk.
g. Apply the following controls to the systems or components when the individuals return from travel: examine the device for signs of physical tampering, purge and reimage disk drives and/or devices as required, and ensure all security controls are in place and functional.

2. CONFIGURATION CHANGE CONTROL
The City of Milaca shall:
    a. Determine the types of changes to the system that are configuration-controlled.

b. Review proposed configuration-controlled changes to the system and approve or disapprove such changes with explicit consideration for security and privacy impact analyses.
c. Document configuration change decisions associated with the system.
d. Implement approved configuration-controlled changes to the system.
e. Retain records of configuration-controlled changes to the system for two (2) years.
f. Monitor and review activities associated with configuration-controlled changes to the system.
g. Coordinate and provide oversight for configuration change control activities through personnel with configuration management responsibilities, a Configuration Control Board, or Change Advisory Board that convenes regularly or when hardware or software changes (i.e., updates, upgrades, replacements, etc.) to the information system are required.
h. Test, validate, and document changes to the system before finalizing the implementation of the changes.
i. Require organizational personnel with information security and privacy responsibilities to be members of the Configuration Control Board or Change Advisory Board.

3. IMPACT ANALYSIS
The City of Milaca shall:
a. Analyze changes to the system to determine potential security and privacy impacts prior to change implementation.
b. After-system changes, verify that the impacted controls are implemented correctly, operating as intended, and producing the desired outcome with regard to meeting the security and privacy requirements for the system.

4. ACCESS RESTRICTIONS FOR CHANGE
The City of Milaca shall:
a. Define, document, approve, and enforce physical and logical access restrictions associated with changes to the system.

5. CONFIGURATION SETTINGS
The City of Milaca shall:
a. Establish and document configuration settings for components employed within the system that reflect the most restrictive mode consistent with operational requirements using established best practices and guidelines such as Defense Information Systems Agency (DISA) Secure Technical Implementation Guidelines (STIGs), Center for Internet Security (CIS) Benchmarks, or Federal Information Processing Standards.
b. Implement the configuration settings.
c. Identify, document, and approve any deviations from established configuration settings for system components that store, process, or transmit CJI based on operational requirements.
d. Monitor and control changes to the configuration settings in accordance with City of Milaca policies and procedures.

6. LEAST FUNCTIONALITY
The City of Milaca shall:
a. Configure the system to provide only essential capabilities to meet City of Milaca requirements.

b. Prohibit or restrict the use of specified functions, ports, protocols, software, and/or services which are not required.
c. Review the system annually, as the system changes, or incidents occur to identify unnecessary and/or nonsecure functions, ports, protocols, software, and services.
d. Disable functions, ports, protocols, and services within the system deemed to be unnecessary and/or unsecure.
e. Prevent program execution in accordance with rules of behavior and/or rules authorizing the terms and conditions of software program usage.
f. Identify software programs authorized to execute on systems.
g. Employ a deny-all, permit-by-exception policy to allow the execution of authorized software programs on the system.
h. Review and update the list of authorized software programs annually.

7. SYSTEM COMPONENT INVENTORY
The City of Milaca shall:
    a. Develop and document an inventory of system components that:
        i. Accurately reflects the system.
        ii. Includes all components within the system.
        iii. Does not include duplicate accounting of components or components assigned to any other system.
        iv. Is at the level of granularity deemed necessary for tracking and reporting.
        v. Includes the following minimum information to achieve system component accountability: date of installation, model, serial number, manufacturer, supplier information, component type, software owner, software version number, software license information, and hardware and physical location

    b. Review and update the information system component inventory annually.
    c. Detect the presence of unauthorized hardware, software, and firmware components within the system using automated mechanisms continuously or at least weekly.
    d. Take the following actions when unauthorized components are detected: disable or isolate the unauthorized components and notify organizational personnel with security responsibilities.

8. CONFIGURATION MANAGEMENT PLAN
IT shall develop, document, and implement a configuration management plan for the City of Milaca system that:
    a. Addresses roles, responsibilities, and configuration management processes and procedures.
    b. Establishes a process for identifying configuration items throughout the system development life cycle and for managing the configuration of the configuration items.
    c. Defines the configuration items for the information system and places the configuration items under configuration management.
    d. Is reviewed and approved by City of Milaca personnel with information security responsibilities and City of Milaca personnel with configuration management responsibilities
    e. Protects the configuration management plan from unauthorized disclosure and modification.

9. SOFTWARE USAGE RESTRICTIONS
The City of Milaca shall:

a. Use software and associated documentation in accordance with contract agreements and copyright laws.
b. Track the use of software and associated documentation protected by quantity licenses to control copying and distribution.
c. Control and document the use of peer-to-peer file sharing technology to ensure that this capability is not used for the unauthorized distribution, display, performance, or reproduction of copyrighted work.

10. USER-INSTALLED SOFTWARE
The City of Milaca shall:
a. Establish agency-level policies governing the installation of software by users.
b. Enforce software installation policies through automated methods.
c. Monitor policy compliance through automated methods at least weekly.

11. INFORMATION LOCATION
The City of Milaca shall:
a. Identify and document the location of CJI and the specific system components on which the information is processed, stored, or transmitted;
b. Identify and document the users who have access to the system and system components where the information is processed and stored; and
c. Document changes to the location (i.e., system or system components) where the information is processed and stored.
d. Use automated tools to identify CJI on software and hardware system components to ensure controls are in place to protect organizational information and individual privacy

Media Protection

1. MEDIA ACCESS:
IT through direction from City of Milaca shall:
a. Restrict access to digital and non-digital media to authorized individuals.
b. Mark information system media indicating the distribution limitations, handling caveats, and applicable security markings of digital and non-digital information media.

2. MEDIA STORAGE
The City of Milaca shall:
a. Physically control and securely store digital and non-digital media within physically secure locations or controlled areas and encrypt CJI and other controlled information on digital media when physical and personnel restrictions are not feasible.
b. Protect system media types defined in FBI CJIS Policy, Section 5.8, MP-4a until the media are destroyed or sanitized using approved equipment, techniques, and procedures.

3. MEDIA TRANSPORT
The City of Milaca shall:
a. Protect and control digital and non-digital media to help prevent compromise of the data during transport outside of the physically secure locations or controlled areas using encryption, as defined in FBI CJIS Policy, Section 5.10, SC-13 and SC-28 of this Policy. Physical media will be protected at the same level as the information would be protected in electronic form. Restrict the activities associated with transport of electronic and physical media to authorized personnel.

b. Maintain accountability for system media during transport outside of the physically secure location or controlled areas.
c. Document activities associated with the transport of system media.
d. Restrict the activities associated with the transport of system media to authorized personnel.

4. MEDIA SANITIZATION
The City of Milaca shall:
a. Sanitize or destroy digital and non-digital media prior to disposal, release out of agency control, or release for reuse using overwrite technology at least three times or degauss digital media prior to disposal or release for reuse by unauthorized individuals. Inoperable digital media will be destroyed (cut up, shredded, etc.). Physical media will be securely disposed of when no longer needed for investigative or security purposes, whichever is later. Physical media will be destroyed by crosscut shredding or incineration.
b. Employ sanitization mechanisms with the strength and integrity commensurate with the security category or classification of the information.

5. MEDIA USE
The City of Milaca shall:
a. Restrict the use of digital and non-digital media on City of Milaca owned systems that have been approved for use in the storage, processing, or transmission of controlled information, such as criminal justice information, by using technical, physical, or administrative controls.
b. Prohibit the use of personally owned digital media devices on all City of Milaca owned or controlled systems that store, process, or transmit any controlled or restricted information, such as criminal justice information.
c. Prohibit the use of digital media devices on all City of Milaca owned or controlled systems that store, process, or transmit controlled information, such as criminal justice information, when such devices have no identifiable owner.

Physical and Environmental Protection

This policy only applies to the Milaca Police Department.

1. PHYSICAL ACCESS AUTHORIZATIONS
The Milaca Police Department shall:
a. Develop, approve, and maintain a list of individuals with authorized access to the Milaca Police Department where the system resides.
b. Issue authorization credentials for Milaca Police Department access.
c. Review the access list detailing authorized Milaca Police Department access by individuals annually and when personnel changes occur.
d. Remove individuals from the Milaca Police Department access list when access is no longer required.

2. PHYSICAL ACCESS CONTROL
The Milaca Police Department shall:
a. Enforce physical access authorizations by:
    a. Verifying individual access authorizations before granting access to Milaca Police Department.

b. Controlling ingress and egress to Milaca Police Department using agency-implemented procedures and controls.

b. Maintain physical access audit logs for Milaca Police Department and agency-defined sensitive areas.
c. Control access to areas within the Milaca Police Department designated as non-publicly accessible by implementing physical access devices including, but not limited to keys, locks, combinations, biometric readers, placards, and/or card readers.
d. Escort visitors and control visitor activity in all physically secure locations of Milaca Police Department.
e. Secure keys, combinations, and other physical access devices.
f. Inventory all agency-issued physical access devices annually.
g. Change combinations and keys when keys are lost, combinations are compromised, or when individuals possessing the keys or combinations are transferred or terminated.
h. If the above conditions cannot be met refer to the requirements listed in PE-17.

3. ACCESS CONTROL FOR TRANSMISSION
The Milaca Police Department shall:
a. Control physical access to information system distribution and transmission lines and devices within Milaca Police Department facilities using agency-implemented procedures and controls.

4. ACCESS CONTROL FOR OUTPUT DEVICES
The Milaca Police Department shall:
a. Control physical access to output from monitors, printers, scanners, audio devices, facsimile machines, and copiers to prevent unauthorized individuals from obtaining the output.

5. MONITORING PHYSICAL ACCESS
The Milaca Police Department shall:
a. Monitor physical access to the Milaca Police Department where the system resides to detect and respond to physical security incidents.
b. Review physical access logs quarterly and upon occurrence of any physical, environmental, or security-related incidents involving CJI or systems used to process, store, or transmit CJI.
c. Coordinate results of reviews and investigations with the Milaca Police Department incident response capability.
d. Monitor physical access to the facility where the system resides using physical intrusion alarms and surveillance equipment.

6. VISITOR ACCESS RECORDS
The Milaca Police Department shall:
a. Maintain visitor access records to Milaca Police Department where the information system resides for one year.
b. Review visitor access records quarterly.
c. Report anomalies in visitor access records to organizational personnel with physical and environmental protection responsibilities and organizational personnel with information security responsibilities.
d. Limit personally identifiable information contained in visitor access records to the minimum PII necessary to achieve the purpose for which it is collected.

7. POWER EQUIPMENT AND CABLING
   The Milaca Police Department shall:
   a. Protect power equipment and power cabling for the system from damage and destruction.

8. EMERGENCY SHUTOFF
   The Milaca Police Department shall:
   a. Provide the capability of shutting off power to all information systems in emergency situations.
   b. Place emergency shutoff switches or devices in easily accessible locations to facilitate access for authorized personnel.
   c. Protect emergency power shutoff capability from unauthorized activation.

9. EMERGENCY POWER
   The Milaca Police Department shall:
   a. Provide an uninterruptible power supply to facilitate an orderly shutdown of the information system or transition of the information system to an alternate power source in the event of a primary power source loss.

10. EMERGENCY LIGHTING
    The Milaca Police Department shall:
    a. Employ and maintain automatic emergency lighting for the system that activates in the event of a power outage or disruption and that covers emergency exits and evacuation routes within the facility.

11. FIRE PROTECTION
    The Milaca Police Department shall:
    a. Employ and maintain fire suppression and detection systems that are supported by an independent energy source.
    b. Employ fire detection systems that activate automatically and notify organizational personnel with physical and environmental protection responsibilities and police, fire, or emergency medical personnel in the event of a fire.

12. ENVIRONMENTAL CONTROLS
    The Milaca Police Department shall:
    a. Maintain adequate HVAC levels within the facility where the system resides at recommended system manufacturer levels.
    b. Monitor environmental control levels continuously.

13. WATER DAMAGE PROTECTION
    The Milaca Police Department shall:
    a. Protect the information system from damage resulting from water leakage by providing master shutoff or isolation valves that are accessible, working properly, and known to key personnel.

14. DELIVERY AND REMOVAL
    The Milaca Police Department shall:

a. Authorize and control information system-related components entering and exiting the Milaca Police Department.
b. Maintain records of the system components.

15. ALTERNATE WORK SITE
The Milaca Police Department shall:
    a. Determine and document all alternate facilities or locations allowed for use by employees.
    b. Employ security controls at alternate work sites:
        i. Limit access to the area during CJI processing times to only those personnel authorized by Milaca Police Department to access or view CJI.
        ii. Lock the area, room, or storage container when unattended.
        iii. Position information system devices and documents containing CJI in such a way as to prevent unauthorized individuals from access and view.
        iv. Follow the encryption requirements found in FBI CJIS Policy, Section 5.10, SC-13 and SC-28 for electronic storage (i.e., data at-rest) of CJI.
    c. Assess the effectiveness of controls at alternate work sites.
    d. Provide a means for employees to communicate with information security and privacy personnel in case of incidents.

Systems and Communications Protection

1. APPLICATION PARTITIONING
The City of Milaca shall:
    a. Separate user functionality, including user interface services, from system management functionality.

2. INFORMATION IN SHARED RESOURCES
The City of Milaca shall:
    a. Prevent unauthorized and unintended information transfer via shared system resources.

3. DENIAL OF SERVICE PROTECTION
The City of Milaca shall:
    a. Protect against or limit the effects of the following types of denial-of-service events: Distributed Denial of Service, DNS Denial of Service, etc.
    b. Employ the following controls to achieve the denial-of-service objective: boundary protection devices and intrusion detection or prevention devices.

4. BOUNDARY PROTECTION
The City of Milaca shall:
    a. Monitor and control communications at the external managed interfaces to the system and at key internal managed interfaces within the system.
    b. Implement subnetworks for publicly accessible system components that are physically or logically separated from internal organizational networks.
    c. Connect to external networks or systems only through managed interfaces consisting of boundary protection devices arranged in accordance with organizational security and privacy architecture.
    d. Limit the number of external network connections to the system.
    e. Implement a managed interface for each external telecommunication service.
    f. Establish a traffic flow policy for each managed interface.

g. Protect the confidentiality and integrity of the information being transmitted across each interface.
h. Document each exception to the traffic flow policy with a supporting mission or business need and duration of that need.
i. Review exceptions to the traffic flow policy annually, after any incident, and after any major changes impacting the information system, while removing exceptions that are no longer supported by an explicit mission or business need.
j. Prevent unauthorized exchange of control plane traffic with external networks.
k. Publish information to enable remote networks to detect unauthorized control plane traffic from internal networks.
l. Filter unauthorized control plane traffic from external networks.
m. Deny network communications traffic by default and allow network communications traffic by exception at boundary devices for information systems used to process, store, or transmit CJI and other controlled information.
n. Prevent split tunneling for remote devices connecting to City of Milaca systems.
o. Route all internal communications traffic that may be proxied, except traffic specifically exempted by City of Milaca personnel with information security responsibilities, to all untrusted networks through authenticated proxy servers at managed interfaces.
p. For systems that process personally identifiable information:
    i. Apply the following processing rules to data elements of personally identifiable information: all applicable laws, executive orders, directives, regulations, policies, standards, and guidelines.
    ii. Monitor for permitted processing at the external interfaces to the system and at key internal boundaries within the system.
    iii. Document each processing exception.
    iv. Review and remove exceptions that are no longer supported.

5. TRANSMISSION CONFIDENTIALITY AND INTEGRITY
The City of Milaca shall:
    a. Protect the confidentiality and integrity of transmitted information.
    b. Implement cryptographic mechanisms to prevent unauthorized disclosure and detect unauthorized changes or access to CJI, and other controlled information, during transmission.

6. NETWORK DISCONNECT
The City of Milaca shall:
    a. Terminate the network connection associated with a communications session at the end of the session or after one (1) hour of inactivity.

7. CRYPTOGRAPHIC KEY ESTABLISHMENT AND MANAGEMENT
The City of Milaca shall:
    a. Establish and manage cryptographic keys for required cryptography employed within the system in accordance with the following key management requirements: encryption key generation, distribution, storage, access, and destruction is controlled by City of Milaca.

8. CRYPTOGRAPHIC PROTECTION
The City of Milaca shall:
    a. Determine the use of encryption for CJI, and other controlled information, in-transit when outside a physically secure location.

b. Implement the following types of cryptography required for each specified cryptographic use: cryptographic modules which are Federal Information Processing Standard (FIPS) 140-3 certified, or FIPS validated algorithm for symmetric key encryption and decryption (FIPS 197 [AES]), with a symmetric cipher key of at least 128-bit strength for CJI, and other controlled information, in-transit.

9. COLLABORATIVE COMPUTING DEVICES
   The City of Milaca shall:
   a. Prohibit remote activation of collaborative computing devices and applications.
   b. Provide an explicit indication of use to users physically present at the devices.

10. PUBLIC KEY INFRASTRUCTURE CERTIFICATES
    The City of Milaca shall:
    a. Issue public key certificates under an agency-level certificate or obtain public key certificates from an approved service provider.
    b. Include only approved trust anchors in trust stores or certificate stores managed by City of Milaca.

11. MOBILE CODE
    The City of Milaca shall:
    a. Define acceptable and unacceptable mobile code and mobile code technologies.
    b. Authorize, monitor, and control the use of mobile code within the information system.

12. SECURE NAME / ADDRESS RESOLUTION SERVICE (AUTHORITATIVE SOURCE)
    The City of Milaca shall:
    a. Provide additional data origin authentication and integrity verification artifacts along with the authoritative name resolution data the system returns in response to external name/address resolution queries.
    b. Provide the means to indicate the security status of child zones and (if the child supports secure resolution services) to enable verification of a chain of trust among parent and child domains, when operating as part of a distributed, hierarchical namespace.

13. SECURE NAME / ADDRESS RESOLUTION SERVICE (RECURSIVE OR CACHING RESOLVER)
    The City of Milaca shall:
    a. Request and perform data origin authentication and data integrity verification on the name/address resolution responses the system receives from authoritative sources.

14. ARCHITECTURE AND PROVISIONING FOR NAME / ADDRESS RESOLUTION SERVICE
    The City of Milaca shall:
    a. Ensure the information systems that collectively provide name/address resolution service for an organization are fault-tolerant and implement internal/external role separation.

15. SESSION AUTHENTICITY
    The City of Milaca shall:
    a. Protect the authenticity of communications sessions.

16. PROTECTION OF INFORMATION AT REST
    The City of Milaca shall:

a. Protect the confidentiality and integrity of the following information at rest: CJI, and other controlled information, when outside physically secure locations using cryptographic modules which are certified FIPS 140-3 with a symmetric cipher key of at least 128-bit strength, or FIPS 197 with a symmetric cipher key of at least 256-bit strength. Metadata derived from unencrypted controlled information, such as CJI, shall be protected in the same manner as CJI, and other controlled information, and shall not be used for any advertising or other commercial purposes by any cloud service provider or other associated entity. The storage of controlled information, such as CJI, regardless of encryption status, shall only be permitted in cloud environments (e.g., government or third-party/commercial datacenters, etc.) which reside within the physical boundaries of APB-member country (i.e., United States, U.S. territories, Indian Tribes, and Canada) and are under legal authority of an APB-member agency (i.e., United States–federal/state/territory, Indian Tribe, or the Royal Canadian Mounted Police).
b. Implement cryptographic mechanisms to prevent unauthorized disclosure and modification of the following information at rest on information systems and digital media outside physically secure locations: CJI and other controlled information.

17. PROCESS ISOLATION
The City of Milaca shall:
a. Maintain a separate execution domain for each executing system process.

System and Information Integrity

1. FLAW REMEDIATION
The City of Milaca shall:
a. Identify, report, and correct information system flaws.
b. Test software and firmware updates related to flaw remediation for effectiveness and potential side effects before installation.
c. Install security-relevant software and firmware updates within the number of days listed after the release of the updates;
    - Critical – 7 days
    - High – 30 days
    - Medium – 60 days
    - Low – 90 days

d. Incorporate flaw remediation into the configuration management process.
e. Determine if system components have applicable security-relevant software and firmware updates installed using vulnerability scanning tools as least quarterly or following any security incidents involving controlled information, such as CJI or systems used to process, store, or transmit CJI and other controlled information.

2. MALICIOUS CODE PROTECTION
The City of Milaca shall:
a. Implement signature-based malicious code protection mechanisms at system entry and exit points to detect and eradicate malicious code
b. Automatically update malicious code protection mechanisms as new releases are available in accordance with City of Milaca configuration management policy and procedures.
c. Configure malicious code protection mechanisms to:
    i. Perform periodic scans of the information system at least daily and real-time scans of files from external sources at endpoint; network entry/exit points as

the files are downloaded, opened, or executed in accordance with the City of Milaca policy.

ii. Block malicious code; quarantine malicious code; send alert to administrator and/or organizational personnel with information security responsibilities in response to malicious code detection.

d. Address the receipt of false positives during malicious code detection and eradication and the resulting potential impact on the availability of the information system.

3. SYSTEM MONITORING

The City of Milaca shall:

a. Monitor the information system to detect:

i. Attacks and indicators of potential attacks.

a. Intrusion detection and prevention
b. Malicious code protection
c. Vulnerability scanning
d. Audit record monitoring
e. Network monitoring
f. Firewall monitoring

ii. Unauthorized local, network, and remote connections.

b. Identify unauthorized use of the information system through defined techniques and methods: event logging.

c. Invoke internal monitoring capabilities or deploy monitoring devices.

a. Strategically within the system to collect City of Milaca -determined essential information.
b. At ad hoc locations within the system to track specific types of transactions of interest to the City of Milaca.

d. Analyze detected events and anomalies.

e. Adjust the level of system monitoring activity when there is a change in risk to City of Milaca operations and assets, individuals, other organizations, or the Nation.

f. Obtain legal opinion regarding system monitoring activities.

g. Provide intrusion detection and prevention systems, malicious code protection software, scanning tools, audit record monitoring software, network monitoring, and firewall monitoring software logs to City of Milaca personnel with information security responsibilities weekly.

h. Employ automated tools and mechanisms to support near real-time analysis of events.

i. Determine criteria for unusual or unauthorized activities or conditions for inbound and outbound communications traffic.

j. Monitor inbound and outbound communications traffic continuously for unusual or unauthorized activities or conditions such as: the presence of malicious code or unauthorized use of legitimate code or credentials within City of Milaca systems or propagating among system components, signaling to external systems, and the unauthorized exporting of information.

k. Alert City of Milaca personnel with system monitoring responsibilities when the following system-generated indications of compromise or potential compromise occur: inappropriate or unusual activities with security or privacy implications

4. SECURITY ALERTS, ADVISORIES, AND DIRECTIVES
   The City of Milaca shall:
   a. Receive information system security alerts, advisories, and directives from CISA and MS-ISAC on an ongoing basis.
   b. Generate internal security alerts, advisories, and directives as deemed necessary.
   c. Disseminate security alerts, advisories, and directives to: City of Milaca personnel implementing, operating, maintaining, and using the system.
   d. Implement security directives in accordance with established time frames, or notifies the issuing organization of the degree of noncompliance.

5. SOFTWARE, FIRMWARE, AND INFORMATION INTEGRITY
   The City of Milaca shall:
   a. Employ integrity verification tools to detect unauthorized changes to agency software, firmware, and information systems that contain or process-controlled information, such as CJI.
   b. Take the following actions when unauthorized changes to the software, firmware, and information are detected: notify organizational personnel responsible for software, firmware, and/or information integrity and implement incident response procedures as appropriate.
   c. Perform an integrity check of software, firmware, and information systems that contain or process CJI at agency-defined transitional states or security relevant events at least weekly or in an automated fashion.
   d. Incorporate the detection of the following unauthorized changes into the organizational incident response capability: unauthorized changes to established configuration setting or the unauthorized elevation of system privileges.

6. SPAM PROTECTION
   The City of Milaca shall:
   a. Employ spam protection mechanisms at information system entry and exit points to detect and act on unsolicited messages.
   b. Update spam protection mechanisms when new releases are available in accordance with the City of Milaca configuration management policy and procedures.
   c. Automatically update spam protection mechanisms at least daily.

7. INFORMATION INPUT VALIDATION
   The City of Milaca shall:
   a. Check the validity of the following information inputs: all inputs to web/application servers, database servers, and any system or application input that might receive or process-controlled information, such as CJI.

8. ERROR HANDLING
   The City of Milaca shall:
   a. Generate error messages that provide information necessary for corrective actions without revealing information that could be exploited.
   b. Reveal error messages only to organizational personnel with information security responsibilities.

9. INFORMATION MANAGEMENT AND RETENTION
   The City of Milaca shall:

a. Manage and retain information within the system and information output from the system in accordance with applicable laws, executive orders, directives, regulations, policies, standards, guidelines and operational requirements.
b. Limit personally identifiable information being processed in the information life cycle to the minimum PII necessary to achieve the purpose for which it is collected.
c. Use the following techniques to minimize the use of personally identifiable information for research, testing, or training: data obfuscation, randomization, anonymization, or use of synthetic data.
d. Use the following techniques to dispose of, destroy, or erase information following the retention period: as defined in FBI CJIS Policy, Section 5.8, MP-6.

10. MEMORY PROTECTION
The City of Milaca shall:
    a. Implement the following controls to protect the system memory from unauthorized code execution: data execution prevention and address space layout randomization.

Maintenance

1. CONTROLLED MAINTENANCE
The City of Milaca shall:
    a. Schedule, document, and review records of maintenance, repair, and replacement on system components in accordance with manufacturer or vendor specifications and/or organizational requirements
    b. Approve and monitor all maintenance activities, whether performed on site or remotely and whether the equipment is serviced on site or removed to another location.
    c. Require that City of Milaca personnel with information security and privacy responsibilities explicitly approve the removal of the system or system components from organizational facilities for off-site maintenance, repair, or replacement.
    d. Sanitize equipment to remove information from associated media prior to removal from City of Milaca facilities for off-site maintenance, repair, replacement, or destruction.
    e. Check all potentially impacted security controls to verify that the controls are still functioning properly following maintenance, repair, or replacement actions.
    f. Include the following information in City of Milaca maintenance records:
        a. Component Name
        b. Component Serial Number
        c. Date/Time of Maintenance
        d. Maintenance Performed
        e. Name(s) of entity performing maintenance including escort if required.

2. MAINTENANCE TOOLS
The City of Milaca shall:
    a. Approve, control, and monitor the use of system maintenance tools.
    b. Review previously approved system maintenance tools prior to each use.
    c. Inspect the maintenance tools used by maintenance personnel for improper or unauthorized modifications.
    d. Check media containing diagnostic and test programs for malicious code before the media are used in the system.

e. Prevent the removal of maintenance equipment containing organizational information by:
    i. Verifying that there is no organizational information contained on the equipment.
    ii. Sanitizing or destroying the equipment.
    iii. Retaining the equipment within the facility.
    iv. Obtaining an exemption from organizational personnel with system maintenance responsibilities explicitly authorizing removal of the equipment from the facility

3. NONLOCAL MAINTENANCE
   The City of Milaca shall:
    a. Approve and monitor non-local maintenance and diagnostic activities.
    b. Allow the use of non-local maintenance and diagnostic tools only as consistent with City of Milaca policy and documented in the security plan for the system.
    c. Employ strong authenticators in the establishment of nonlocal maintenance and diagnostic sessions.
    d. Maintain records for nonlocal maintenance and diagnostic activities.
    e. Terminate session and network connections when nonlocal maintenance is completed.

4. MAINTENANCE PERSONNEL
   The City of Milaca shall:
    a. Establish a process for maintenance personnel authorization and maintain a list of authorized maintenance organizations or personnel.
    b. Ensure that non-escorted personnel performing maintenance on the system possess the required access authorizations.
    c. Designate organizational personnel with required access authorizations and technical competence to supervise the maintenance activities of personnel who do not possess the required access authorizations.

5. TIMELY MAINTENANCE
   The City of Milaca shall:
    a. Obtain maintenance support and/or spare parts for critical system components that process, store, and transmit CJI within City of Milaca recovery time and recovery point objectives of failure.

Planning and Assessment

Planning

1. SYSTEM SECURITY AND PRIVACY PLANS
   The City of Milaca shall:
    a. Develop a security and privacy plans for the system that:
        i. Are consistent with City of Milaca enterprise architecture.
        ii. Explicitly define the constituent system components.
        iii. Describe the operational context of the system in terms of missions and business processes.
        iv. Identify the individuals that fulfill system roles and responsibilities.
        v. Identify the information types processed, stored, and transmitted by the system
        vi. Describe any specific threats to the system that are of concern to City of Milaca.

vii. Provide the results of a privacy risk assessment for systems processing personally identifiable information.
viii. Describe the operational environment for the system and any dependencies on or connections to other systems or system components.
ix. Provide an overview of the security and privacy requirements for the system.
x. Identify any relevant control baselines or overlays, if applicable.
xi. Describe the controls in place or planned for meeting the security and privacy requirements, including a rationale for any tailoring decisions.
xii. Include risk determinations for security and privacy architecture and design decisions.
xiii. Include security- and privacy-related activities affecting the system that require planning and coordination with City of Milaca personnel with system security and privacy planning and plan implementation responsibilities; system developers; City of Milaca personnel with information security and privacy responsibilities.
xiv. Are reviewed and approved by the authorizing official or designated representative prior to plan implementation.

b. Distribute copies of the plans and communicate subsequent changes to the plans to City of Milaca personnel with system security and privacy planning and plan implementation responsibilities; system developers; City of Milaca personnel with information security and privacy responsibilities.
c. Review the security plan for the information system at least annually or when required due to system changes or modifications.
d. Update the plans to address changes to the system and environment of operation or problems identified during plan implementation or control assessments.
e. Protect the plans from unauthorized disclosure and modification.

2. RULES OF BEHAVIOR
The City of Milaca shall:
a. Establish and provide to individuals requiring access to the system, the rules that describe their responsibilities and expected behavior for information and system usage, security, and privacy.
b. Receive a documented acknowledgment from such individuals, indicating that they have read, understand, and agree to abide by the rules of behavior, before authorizing access to information and the system.
c. Review and update the rules of behavior at least annually.
d. Require individuals who have acknowledged a previous version of the rules of behavior to read and re-acknowledge annually, or when the rules are revised or updated.
e. Include in the rules of behavior, restrictions on:
i. Use of social media, social networking sites, and external sites/applications.
ii. Posting organizational information on public websites.
iii. Use of City of Milaca -provided identifiers (e.g., email addresses) and authentication secrets (e.g., passwords) for creating accounts on external sites/applications.

3. SECURITY AND PRIVACY ARCHITECTURE
The City of Milaca shall:
a. Develop security and privacy architectures for the system that:

i. Describe the requirements and approach to be taken for protecting the confidentiality, integrity, and availability of organizational information.
ii. Describe the requirements and approach to be taken for processing personally identifiable information to minimize privacy risk to individuals.
iii. Describe how the architecture is integrated into and support the enterprise architecture.
iv. Describe any assumptions about, and dependencies on, external systems and services

b. Review and update the architectures at least annually or when changes to the system or its environment occur to reflect changes in the enterprise architecture.
c. Reflect planned architecture changes in security and privacy plans, Concept of Operations (CONOPS), criticality analysis, organizational procedures, and procurements and acquisitions.

4. CENTRAL MANAGEMENT
The City of Milaca shall:
a. The CJISSECPOL is centrally managed by the FBI CJIS ISO.

5. BASELINE SELECTION
The City of Milaca shall:
a. Select a control baseline for the system.

6. BASELINE TAILORING
The City of Milaca shall:
a. Tailor the selected control baseline by applying specified tailoring actions

Contingency Planning

1. CONTINGENCY PLAN
The City of Milaca shall:
a. Develop a contingency plan for the system that:
a. Identifies essential mission and business functions and associated contingency requirements.
b. Provides recovery objectives, restoration priorities, and metrics.
c. Addresses contingency roles, responsibilities, assigned individuals with contact information.
d. Addresses maintaining essential mission and business functions despite a system disruption, compromise, or failure.
e. Addresses eventual, full system restoration without deterioration of the controls originally planned and implemented.
f. Addresses the sharing of contingency information.
g. Is reviewed and approved by City of Milaca head or their designee.

b. Distribute copies of the contingency plan to City of Milaca personnel with contingency planning or incident response duties.
c. Coordinate contingency planning activities with incident handling activities.
d. Review the contingency plan for the system annually.

e. Update the contingency plan to address changes to City of Milaca, system, or environment of operation and problems encountered during contingency plan implementation, execution, or testing.
f. Communicate contingency plan changes to City of Milaca personnel with contingency planning or incident response duties.
g. Incorporate lessons learned from contingency plan testing, training, or actual contingency activities into contingency testing and training.
h. Protect the contingency plan from unauthorized disclosure and modification.
i. Coordinate contingency plan development with City of Milaca elements responsible for related plans.
j. Plan for the resumption of essential mission and business functions within twenty-four (24) hours of contingency plan activation.
k. Identify critical system assets supporting essential mission and business functions.

2. CONTINGENCY TRAINING
The City of Milaca shall:
a. Provide contingency training to system users consistent with assigned roles and responsibilities:
    a. Within thirty (30) days of assuming a contingency role or responsibility.
    b. When required by system changes.
    c. Annually thereafter.

b. Review and update contingency training content annually and following any security incidents involving unauthorized access to CJI or systems used to process, store, or transmit CJI, or training simulations or exercises.

3. CONTINGENCY PLAN TESTING
The City of Milaca shall:
a. Test the contingency plan for the system annually using the following tests to determine the effectiveness of the plan and the readiness to execute the plan: checklists, walk-through and tabletop exercises, simulations (parallel or full interrupt), or comprehensive exercises.
b. Review the contingency plan test results.
c. Initiate corrective actions, if needed.
d. Coordinate contingency plan testing with organizational elements responsible for related plans.

4. ALTERNATE STORAGE SITE
The City of Milaca shall:
a. Establish an alternate storage site, including necessary agreements to permit the storage and retrieval of system backup information.
b. Ensure that the alternate storage site provides controls equivalent to that of the primary site.
c. Identify an alternate storage site that is sufficiently separated from the primary storage site to reduce susceptibility to the same threats.
d. Identify potential accessibility problems to the alternate storage site in the event of an area-wide disruption or disaster and outline explicit mitigation actions.

5. ALTERNATE PROCESSING SITE
The City of Milaca shall:

a. Establish an alternate processing site, including necessary agreements to permit the transfer and resumption of operations for essential mission and business functions within the time period defined in the system contingency plan(s) when the primary processing capabilities are unavailable.
b. Make available at the alternate processing site, the equipment and supplies required to transfer and resume operations or put contracts in place to support delivery to the site within the organization-defined time period for transfer and resumption.
c. Provide controls at the alternate processing site that are equivalent to those at the primary site.
d. Identify an alternate processing site that is sufficiently separated from the primary processing site to reduce susceptibility to the same threats.
e. Identify potential accessibility problems to alternate processing sites in the event of an area-wide disruption or disaster and outlines explicit mitigation actions.
f. Develop alternate processing site agreements that contain priority-of-service provisions in accordance with availability requirements (including recovery time objectives).

6. TELECOMMUNICATIONS SERVICES
The City of Milaca shall:
a. Establish alternate telecommunications services, including necessary agreements to permit the resumption of system operations for essential mission and business functions within the time period as defined in the system contingency plan(s) when the primary telecommunications capabilities are unavailable at either the primary or alternate processing or storage sites.
b. Develop primary and alternate telecommunications service agreements that contain priority-of-service provisions in accordance with availability requirements (including recovery time objectives).
c. Request Telecommunications Service Priority for all telecommunications services used for national security emergency preparedness if the primary and/or alternate telecommunications services are provided by a common carrier.
d. Obtain alternate telecommunications services to reduce the likelihood of sharing a single point of failure with primary telecommunications services.

7. SYSTEM BACKUP
The City of Milaca shall:
a. Conduct backups of user-level information contained in operational systems for essential business functions as required by the contingency plans.
b. Conduct backups of system-level information contained in the system as required by the contingency plans.
c. Conduct backups of system documentation, including security- and privacy-related documentation as required by the contingency plans.
d. Protect the confidentiality, integrity, and availability of backup information.
e. Test backup information as required by the contingency plans to verify media reliability and information integrity.
f. Implement cryptographic mechanisms to prevent unauthorized disclosure and modification of CJI.

8. SYSTEM RECOVERY AND RECONSTITUTION
The City of Milaca shall:

a. Provide for the recovery and reconstitution of the system to a known state within the timeframe as required by the contingency plans after a disruption, compromise, or failure.
b. Implement transaction recovery for systems that are transaction-based.

Risk Assessment

1. SECURITY CATEGORIZATION
   The City of Milaca shall:
   a. Categorize the system and information it processes, stores, and transmits.
   b. Document the security categorization results, including supporting rationale, in the security plan for the system.
   c. Verify that the authorizing official or authorizing official designated representative reviews and approves the security categorization decision.

2. RISK ASSESSMENT
   The City of Milaca shall:
   a. Conduct a risk assessment, including:
      i. Identifying threats to and vulnerabilities in the system.
      ii. Determining the likelihood and magnitude of harm from unauthorized access, use, disclosure, disruption, modification, or destruction of the system, the information it processes, stores, or transmits, and any related information.
      iii. Determining the likelihood and impact of adverse effects on individuals arising from the processing of personally identifiable information.

   b. Integrate risk assessment results and risk management decisions from the organization and mission or business process perspectives with system-level risk assessments.
   c. Document risk assessment results in a risk assessment report.
   d. Review risk assessment results at least quarterly.
   e. Disseminate risk assessment results to City of Milaca personnel with risk assessment responsibilities and organizational personnel with security and privacy responsibilities.
   f. Update the risk assessment at least quarterly or when there are significant changes to the system, its environment of operation, or other conditions that may impact the security or privacy state of the system.

3. VULNERABILITY MONITORING AND SCANNING
   The City of Milaca shall:
   a. Monitor and scan for vulnerabilities in the system and hosted applications at least monthly and when new vulnerabilities potentially affecting the system are identified and reported.
   b. Employ vulnerability monitoring tools and techniques that facilitate interoperability among tools and automate parts of the vulnerability management process by using standards for:
      i. Enumerating platforms, software flaws, and improper configurations.
      ii. Formatting checklists and test procedures.
      iii. Measuring vulnerability impact.

   c. Analyze vulnerability scan reports and results from vulnerability monitoring.
   d. Remediate legitimate vulnerabilities within the number of days listed:
      i. Critical-7 days
      ii. High-30 days
      iii. Medium-60 days

iv. Low-90 days

e. Share information obtained from the vulnerability monitoring process and control assessments with organizational personnel with risk assessment, control assessment, and vulnerability scanning responsibilities to help eliminate similar vulnerabilities in other systems.
f. Employ vulnerability monitoring tools that include the capability to readily update the vulnerabilities to be scanned.
g. Update the system vulnerabilities to be scanned within 24 hours prior to running a new scan or when new vulnerabilities are identified and reported.
h. Implement privileged access authorization to information system components containing or processing CJI for vulnerability scanning activities requiring privileged access.
i. Establish a public reporting channel for receiving reports of vulnerabilities in organizational systems and system components.

4. RISK RESPONSE
The City of Milaca shall:
   a. Respond to findings from security and privacy assessments, monitoring, and audits in accordance with organizational risk tolerance.

5. CRITICALITY ANALYSIS
The City of Milaca shall:
   a. Identify critical system components and functions by performing a criticality analysis for information system components containing or processing CJI at the planning, design, development, testing, implementation, and maintenance stages of the system development life cycle.

Reporting

1. INCIDENT RESPONSE TRAINING
The City of Milaca shall:
   a. Provide incident response training to information system users consistent with assigned roles and responsibilities:
      i. Prior to assuming an incident response role or responsibility or acquiring system access.
      ii. When required by information system changes.
      iii. Annually thereafter.

   b. Review and update incident response training content annually and following any security incidents involving unauthorized access to CJI or systems used to process, store, or transmit CJI.
   c. Provide incident response training on how to identify and respond to a breach, including the City of Milaca process for reporting a breach.

2. INCIDENT RESPONSE TESTING
The City of Milaca shall:
   a. Test the effectiveness of the incident response capability for the information system annually using the following tests: tabletop or walk-through exercises; simulations; or other agency-appropriate tests.

i. Coordinate incident response testing with City of Milaca elements responsible for related plans.

3. INCIDENT HANDLING
   The City of Milaca shall:
   a. Implement an incident handling capability for incidents that is consistent with the incident response plan and includes preparation, detection and analysis, containment, eradication, and recovery.
   b. Coordinate incident handling activities with contingency planning activities.
   c. Incorporate lessons learned from ongoing incident handling activities into incident response procedures, training, and testing, and implement the resulting changes accordingly.
   d. Ensure the rigor, intensity, scope, and results of incident handling activities are comparable and predictable across the organization.
   e. Support the incident handling process using automated mechanisms (e.g., online incident management systems and tools that support the collection of live response data, full network packet capture, and forensic analysis.

4. INCIDENT MONITORING
   The City of Milaca shall:
   a. Track and document incidents.

5. INCIDENT REPORTING
   The City of Milaca shall:
   a. Require personnel to report suspected incidents to City of Milaca incident response capability within immediately but not to exceed one (1) hour after discovery.
   b. Report incident information to City of Milaca personnel with incident handling responsibilities, and if confirmed, notify the BCA Information Security Office (ISO) within 24 hours of discovery.
   c. Report incidents using automated mechanisms.
   d. Provide incident information to the provider of the product or service and other organizations involved in the supply chain or supply chain governance for systems or system components related to the incident.

6. INCIDENT RESPONSE ASSISTANCE
   The City of Milaca shall:
   a. Provide an incident response support resource, integral to the organizational incident response capability, that offers advice and assistance to users of the system for the handling and reporting of incidents.
   b. Increase the availability of incident response information and support using automated mechanisms described in the discussion

7. INCIDENT RESPONSE PLAN
   The City of Milaca shall:
   a. Develop an incident response plan that:
      i. Provides City of Milaca with a roadmap for implementing its incident response capability.
      ii. Describes the structure and organization of the incident response capability.
      iii. Provides a high-level approach for how the incident response capability fits into the overall City of Milaca.

iv. Meets the unique requirements of the City of Milaca, which relate to mission, size, structure, and functions.
v. Defines reportable incidents.
vi. Provides metrics for measuring the incident response capability within the City of Milaca.
vii. Defines the resources and management support needed to effectively maintain and mature an incident response capability.
viii. Addresses the sharing of incident information.
ix. Is reviewed and approved by City of Milaca annually.

b. Distribute copies of the incident response plan to City of Milaca personnel with incident handling responsibilities.
c. Update the incident response plan to address system changes and organizational changes or problems encountered during plan implementation, execution, or testing.
d. Communicate incident response plan changes to City of Milaca personnel with incident handling responsibilities.
e. Protect the incident response plan from unauthorized disclosure and modification.
f. Include the following in the Incident Response Plan for breaches involving personally identifiable information:
    a. A process to determine if notice to individuals or other organizations, including oversight organizations, is needed.
    b. An assessment process to determine the extent of the harm, embarrassment, inconvenience, or unfairness to affected individuals and any mechanisms to mitigate such harms.
    c. Identification of applicable privacy requirements.

Training

1. SECURITY AND PRIVACY TRAINING
   City of Milaca shall:
    a. Schedule security and privacy training as part of initial training for new users prior to accessing any restricted information or system, such as CJI, and annually thereafter.
    b. Schedule security awareness training when required by system changes or within 30 days of any security event for individuals involved in the event.
    c. Employ one or more of the following techniques to increase the security and privacy awareness of system users:
        1. Displaying posters
        2. Offering supplies inscribed with security and privacy reminders
        3. Displaying logon screen messages
        4. Generating email advisories or notices from organizational officials
        5. Conducting awareness events
    d. Update literacy training and awareness content annually and following changes in the information system operating environment, when security incidents occur, or when changes are made in the CJIS Security Policy.
    e. Incorporate lessons learned from internal or external security incidents or breaches into literacy training and awareness techniques.

2. LITERACY TRAINING & AWARENESS | INSIDER THREAT
   The City of Milaca shall:
    a. Provide literacy training on recognizing and reporting potential indicators of insider threat.
    b. Provide literacy training on recognizing and reporting potential and actual instances of social engineering and social mining.

3. ROLE-BASED SECURITY TRAINING

This policy applies only to the Milaca Police Department. The Milaca Police Department shall:

a. Provide role-based security and privacy training to personnel with the following roles and responsibilities:
    a. All individuals with unescorted access to Milaca Police Department;
    b. General User: A user, but not a process, who is authorized to use an information system;
    c. Privileged User: A user that is authorized (and, therefore, trusted) to perform security-relevant functions that general users are not authorized to perform;
    d. Organizational Personnel with Security Responsibilities: Personnel with the responsibility to ensure the confidentiality, integrity, and availability of CJI and the implementation of technology in a manner compliant with the CJISSECPOL.
        i. Before authorizing access to the system, information, or performing assigned duties, and annually thereafter.
        ii. When required by system changes.

4. SECURITY TRAINING RECORDS

The City of Milaca shall:

a. Document and monitor information security and privacy training activities, including security and privacy awareness training and specific role-based security and privacy training.
b. Retain individual training records for three years.

See Appendix A Acknowledgement of Computer Use Policy.

POLICY: **ARTICLE 5 – REMOTE COMPUTER ACCESS**

ADOPTED: 03-19-2020
EFFECTIVE:
REVISED:

Remote access to our network is essential to maintain our team's productivity in an unforeseen situation such as pandemics. In many cases this remote access originates from networks that may already be compromised or are at a significantly lower security posture than our network. While these remote networks are beyond the control of City policy, we must mitigate these external risks the best of our ability. Remote access to our network would only be used in emergency situations in which the employee is unable to be at their physical workstation due to a prolonged illness or emergency.

Section 5.01 Purpose

The purpose of this policy is to define rules and requirements for connecting to the city network from any host. These rules and requirements are designed to minimize the potential exposure from damages which may result from unauthorized use of resources. Damages include the loss of sensitive or company confidential data, intellectual property, damage to public image, damage to critical internal systems, and fines or other financial liabilities incurred as a result of those losses.

Section 5.02 Scope

This policy provides guidelines for the identification and use of "Essential Personnel" during unforeseen emergencies, including those that dictate suspension of services and/or closure of facilities and operations. During an emergency, Essential Personnel provide services that relate to the health, safety and welfare of the city to ensure continuity of key operations, and to maintain and protect city properties. This policy applies to essential employees with city owned or personally-owned computer or workstation used to connect to the network. Essential Personnel are defined as an employee who may be required to continue operations when the city is faced with an emergency. This policy applies to remote access connections used to do work on behalf of, including reading or sending email, entering data into any city software to process accounts payable, payroll and utility billing, and viewing intranet web resources to keep the city continuity of processes and functionality of operations. This policy covers any and all technical implementations of remote access used to connect to networks.

Section 5.03 Policy

It is the responsibility of employees with remote access privileges to the cities network to ensure that their remote access connection is given the same consideration as the user's on-site connection. (hereafter referred to as "Authorized Users"). When accessing the network from a personal computer, Authorized Users are responsible for preventing access to any computer resources or data by non-Authorized Users. Performance of illegal activities through the network by any user {Authorized or otherwise) is prohibited. The Authorized User bears responsibility for and consequences of misuse of the Authorized User's access. Authorized Users will not use networks to access the Internet for outside business interests.

Section 5.04 Requirements

Secure remote access must be strictly controlled with encryption (i.e., Virtual Private Networks (VPNs)) and strong pass-phrases.

Authorized Users shall protect their login and password, even from family members. While using a computer to remotely connect to the city network, Authorized Users shall ensure the remote host is not connected to any other network at the same time, with the exception of personal networks that are under their complete control or under the complete control of an Authorized User or Third Party.

Use of external resources to conduct city business must be approved in advance by the city manager.

All hosts that are connected to internal networks via remote access technologies must use the most up-to-date anti-virus software and have a computer or laptop with Windows 10 or higher software.

Personal equipment used to connect to the city networks must meet the requirements of owned equipment for remote access.

Section 5.05 Policy Compliance

The City of Milaca uses an IT Professional and will verify compliance to this policy through various methods, including but not limited to, periodic video monitoring, business tool reports, internal and external audits, and inspection, and will provide feedback to the city manager.

Any exception to the policy must be approved by the city manager in advance.

An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

POLICY: **ARTICLE 6 – REMOTE WORK FROM HOME**

ADOPTED:
EFFECTIVE:
REVISED:

Section 6.01 Purpose

City of Milaca is committed to providing excellent customer service for our residents during a pandemic. A remote work policy provides this benefit to the city and is hereby adopted according to the guidelines below.

This policy governs the practice of working remotely from locations other than a city facility, including an employee's home. Remote work should not adversely affect other operational needs of the city and only during a pandemic.

Section 6.02 General Guidelines

Remote work as defined for this policy includes:

1. Working all scheduled hours off-site, or
2. Working some scheduled hours off-site and some on city premises.

Regardless of location, a remote worker remains responsible for all job duties, responsibilities and obligations associated with their position, even if such duties require the employee to come into a city facility while performing work remotely. Employees and supervisors should seek to find solutions to maximize benefit to the city and to the employee.

All city employees who meet the eligibility criteria will be considered for remote work on a case-by-case basis, where creative work arrangements have been shown to accomplish both work and personal goals, and meet the criteria and guidelines set forth below. Remote schedules may need to change to accommodate the needs of the city or when employee job duties change.

When making the decision to approve remote work, supervisors and the city manager will consider the following guidelines:

1. The remote work arrangement must be set in advance and approved by the supervisor and the city manager.
2. Remote work requires the same focus on job duties as if the employee were in the office; constant interruptions from household members, pets or other distractions may disqualify an employee from remote work.
3. There must be adequate department coverage during all standard hours.
4. There must be no adverse impact on internal or external customers.
5. There must be no known safety issues associated with working remotely.

6. There must not be any known security issues with technology or otherwise, in order to protect nonpublic government data.
7. Internal and external customers must be given direction on whom to contact in the employee's absence if the employee is not available during all business hours.
8. The schedule must not result in additional overtime for the employee or co-workers.
9. The employee will receive no more than eight hours of holiday pay for each city holiday.
10. The employee will not be allowed to work outside the State of Minnesota.
11. The supervisor or city manager may end the remote work arrangement at any time.

Remote work arrangements may vary depending on the position and department. Supervisors are responsible for determining the work schedules within their departments, subject to the approval of the city manager. Because the primary focus is serving the needs of the customers, it is important to realize remote work arrangements may not be possible for some positions.

Employees and supervisors should also consider various types of scheduling options for efficiency and productivity, including:

1. Entire weeks in the office or working remotely
2. Certain days in the office; remaining days working remotely
3. Whether to have entire teams of employees in the office on the same day each week or at the beginning of each month

It's also important for the supervisor to consider perceptions of fairness among team members. For example, allowing one employee to work remotely every Friday may be perceived as unfair by other members of the team.

Section 6.03 Eligibility for Flexibility in the Place of Work

Individuals requesting remote work arrangements must be employed with the city for a minimum of 12 months of continuous, regular employment and be successfully performing their job duties, as determined with supervisor input.

There may be additional considerations when an employee requests remote work as a reasonable accommodation and the city will consider those requests on a case-by-case basis.

Section 6.04 Supervision and Performance Evaluation

For employees who are working remotely at least half of their schedule, supervisors must hold regular meetings to discuss work progress and issues for the first three months. These meetings can be conducted by phone, virtual computer technology or in person. Evaluation of remote worker performance beyond the initial three months will be consistent with that received by employees working at the office.

If work performance declines or becomes unsatisfactory, the remote work arrangement may be terminated at the discretion of the city manager.

Section 6.05 Work Hours, Calendars and Meetings

The employee and supervisor will agree on the number of days of remote work that will be allowed each week, the work schedule the employee will customarily maintain, and the manner and frequency of communication. The employee agrees to be accessible by phone, virtual computer software or email within a reasonable time period during the agreed upon work schedule. Depending on the employee's position and the needs of the city, the work schedule may include core hours during which the employee must be available or the schedule can include greater flexibility for the employee to work outside the city's normal business hours.

Remote work hours are not to be used for personal activities such as running errands or as a substitute for daycare. (Note that some remote work policies allow flexibility in how the time is used, as long as the employee meets performance standards; this is especially true for exempt employees).

Remote workers who are not exempt from the overtime requirements of the Fair Labor Standards Act (FLSA) will be required to record all hours worked in a manner designated by the city manager. Such employees will be held to a higher standard of compliance than office-based employees due to the nature of the work arrangement. Hours worked in excess of 40 hours per week, will require advance approval of the supervisor or city manager. Failure to comply with this requirement may result in termination of the remote work arrangement.

Remote workers who are exempt from the overtime requirements of the FLSA must follow the city's normal payroll and timekeeping policies and are generally accountable for their normal work week hours (e.g., for most full-time employees that will be at least 40 hours/week).

All remote workers must use sick, vacation or compensatory time off as needed to cover periods of time off, following the city's normal paid leave policies.

Remote workers are responsible for keeping their electronic calendars up to date and accessible to anyone in the city for all scheduled work hours. Appointments for doctor or other private appointments can be marked as "sick" or "Vacation/Comp." Include travel time as needed to help others schedule meetings.

Remote workers must attend all required meetings, including those which normally would be held on a remote workday, and are also responsible for obtaining information from optional meetings when such meetings impact their work with the city. Supervisors are responsible for setting expectations for their

work teams regarding whether meeting attendance will be in-person, remote or a combination, considering these guidelines:

1. Meetings of a sensitive, highly interactive, or complex nature are best held entirely in-person (e.g., brainstorming, troubleshooting, project "kick-off" meetings, performance reviews, disciplinary meetings).
2. Allowing some workers to attend remotely and others to attend in-person could result in perceptions of unfairness or in some employees missing out on key information (such as when the in-person staff continue to discuss the topic after remote workers log off). Supervisors need to be prepared to address these issues.
3. In-person business meetings with others cannot be held at an employee's home.

Section 6.06 Work Environment and Technology

For employees working remotely on a routine basis, the employee must establish an appropriate work environment to avoid problems associated with safety or poor ergonomics (see Appendix C for a diagram of an ergonomic work station). The city will not be responsible for costs associated with initial setup of the employee's remote office such as remodeling, furniture, lighting, repairs, or modifications to the office space. Employees will be offered appropriate guidance in setting up a workstation designed for safe, comfortable work.

The city will provide employees with appropriate technology (e.g., computer, monitor(s), docking station, mouse, keyboard, headset) for one location, either on-site at city offices or off-site. Employees who work in a hybrid remote work situation (both at the office and at home) are responsible for providing the required technology to work remotely. This includes a reliable internet connection. All city-owned equipment must be returned upon termination of the remote work arrangement or at termination of employment.

The city will supply the employee with the appropriate office supplies (pens, paper, etc.) for their assigned job responsibilities. The organization will also reimburse the employee for all appropriate business-related expenses such as phone calls, shipping costs, etc. reasonably incurred in accordance with job responsibilities; however, the employee may be required to come into the office in order to perform some duties such as mailing, scanning and photocopying.

The city will provide reserved office space for remote workers who remote entirely from home but need to come into the office on an occasional basis.

Section 6.07 City Employment Policy and Benefits Coverage

The City's normal policies and procedures (for example, computer use, data practices, respectful workplace, outside employment, etc.) apply to employees working remotely. Employees should ask their

supervisors if they have any questions about whether or how a particular city policy applies to a remote work environment.

An employee working remotely is generally covered by the City's Workers' Compensation insurance while acting in the course and scope of employment and must report any injury to their supervisor as soon as possible.

See Appendix B - Remote Work Agreement

See Appendix C – Office Ergonomics Guide Sheet

POLICY: **ARTICLE 7 – DRESS CODE**

ADOPTED: 08-15-2019 Resolution #19-40
EFFECTIVE:
REVISED:

Section 7.01 Appearance

Departments may establish dress codes for employees as part of departmental rules. Personal appearance should be appropriate to the nature of the work and contacts with other people and should present a positive image to the public. Clothing, jewelry, or other items that could present a safety hazard are not acceptable in the workplace. Dress needs vary by function. Employees who spend a portion of the day in the field need to dress in a professional manner appropriate to their jobs, as determined by their supervisor. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

It is the policy of the city that each employee's dress, grooming, and personal hygiene should be appropriate to the work situation.

The city places a high priority on appearance and dress in the workplace and the image we project to our residents and customers. The dress and appearance of city employees is a direct reflection on the professionalism of our services. city employees meet with the public everyday as part of the regular workday. A neat, well-groomed employee will present a positive image of the city and demonstrate the pride of our city employees.

Section 7.02 Casual Business Wear

The city hereby adopts "casual business wear" as the dress standard for office staff for Monday through Thursday and permits employees to "dress down" on Fridays. Listed below is a general overview of acceptable casual business wear as well as listing of some of the more common items that are not appropriate for office attire. Neither group is intended to be all-inclusive.

Casual business wear options for male office employees include: Dress shirts, dress slacks, khakis, sport shirts (without advertising), knit shirts, vests, sweaters, and dress shoes. Socks are mandatory. Due to the nature of the work performed by the building inspector, jeans are permitted as long as they are not faded, frayed, tattered/torn or have holes, etc.

Casual business wear options for female office employees include: sport coats/blazers, dress slacks, khakis, dresses, skirts below the knee, blouses, sport shirts, knit shirts, vests, sweaters, dress shoes, and dress sandals, capris, and colored jeans. Due to the nature of the work performed in the Deputy Registrar's office, jeans are permitted as long as they are not faded, frayed, tattered/torn or have holes. T-shirts that are of a decorative nature are allowed as long as they do not have inappropriate slogans, etc. Employees in the Deputy Registrar's office may wear tennis shoes since they are on their feet the majority of the work day.

Employees are expected to present a neat appearance and are not permitted to wear clothing overly worn, faded, in disrepair or disheveled clothing, athletic wear, or similarly inappropriate clothing. Additional inappropriate clothing. are, overalls, spandex or form-fitting, sweatpants, sweatshirts, jogging/warm-up suits, leisure pants, shorts, strapless, tank or halter tops, T-shirts, and shirts with inappropriate slogans, sundresses without jackets, athletic shoes, sneakers, flip-flops, moccasins, croc shoes or slippers. Going barefoot in the office is not permitted.

Friday's dress code permits jeans (with the exception of those with faded, holes, frays, tattered/torn, etc.) and tennis shoes and approved T-shirts and Sweatshirts (those that do not have inappropriate slogans). Strapless, tank or halter tops, or flip-flops are not allowed. All attire must be in good form and appearance

Uniforms are provided to public works employees and police officers. Uniforms bearing city identification should not be worn during off-duty hours. Uniforms must be worn while at work unless an exception is made by the supervisor.

Certain employees may be required to meet special dress, grooming, and hygiene standards, such as wearing uniforms or business attire depending on the nature of their job. Employees who are expected to have contact with customers and residents, prospects, and the public must dress appropriately. Clothes should be clean, pressed, and properly fitting. Hair should be clean, combed and neatly trimmed or arranged. Shaggy, unkept hair is not permissible. Sideburns, moustaches, and beards should be neatly trimmed. Employees should use perfume or cologne sparingly or not at all, many individuals are sensitive to the various scents.

The City of Milaca reserves the right to ask employees to dress appropriately. If the city manager or supervisor has a concern regarding personal appearance, he/she will discuss the concern with the employee. The city manager or supervisor should address repeated violations, and may issue a verbal or written warning including dismissal. Further, the city manager or supervisor can ask an employee to leave the workplace without pay until suitably attired. Employees who need an accommodation associated with a protected status such as religion or disability should speak with city manager to obtain approval to deviate from this policy.

Employees should be aware that poor hygiene could disrupt the work of other employees. Supervisors will address these problems in private with the employee.

POLICY: **ARTICLE 8 – CREDIT CARD POLICY**

ADOPTED: 04-20-2023
EFFECTIVE:
REVISED:

Section 8.01 Authorization

As per MN Statute 471.382, the Milaca City Council may authorize the use of a credit card by any city officer or employee otherwise authorized to make a purchase on behalf of the city. If a city officer or employee makes or directs a purchase by credit card that is not approved by the city manager, the officer or employee is personally liable for the amount of the purchase. All purchases by credit card must otherwise comply with all statutes, rules and policies applicable to city purchases. The city manager shall approve the establishment of all credit card accounts.

The Milaca City Council authorizes the use of credit cards for city business. The credit card will be used as another type of payment and is not intended to be an additional method for creating debt for the city.

MN Stat 412.271 subd 2
MN Stat 471.38 subd 1

Bills from credit card companies do not contain the detail necessary to satisfy the requirement that claims presented to the city for payment must be in writing and itemized. Therefore, invoices and receipts for all items charged must be retained.

MN Stat Ch 475

Credit card use must also comply with laws concerning borrowing. Credit cards will not be used for carrying debt. The entire card balances shall be paid in full each month.

Employees authorized to use the City of Milaca's credit card(s) include the following positions:

City Manager
City Treasurer
Police Chief
Public Works Supervisor
Fire Chief
Liquor store manager

All other employees may use the credit card upon approval from the city manager. Individual purchases over $1,000.00 will require prior city manager approval. Credit cards will carry a card limit of no more than $10,000.00

Employees authorized to use the City of Milaca's fuel credit card(s) include the following employees who are members of:

Public Works Department
Police Department

The city manager shall keep a record of all employees who sign out a credit card or having authorization to use a city credit card.

Authorized employees will receive, sign and file an acknowledgment form regarding credit card use.

Unauthorized use or abuse of a city credit card will result in disciplinary action, up to and including, termination of employment.

Section 8.02 Use of Card

Purchases shall be for vehicle fuel, oil and other items related to the operation of the city-owned vehicle or that department.

Each employee will sign the sales slip and indicate the vehicle and/or department that the purchase applies to.

The card shall not be used to obtain a cash advance.

No employee will intentionally use a city credit card for personal purchases.

Supporting documents and/or invoices will be submitted to the City Accounts Payable Office to be reconciled with the credit card statement and attached to the claim for payment processing.

Department Head shall review all credit card purchases made on behalf of their department and recommend or deny approval for payment.

Department Head must be sure there are budgeted funds available to pay for credit card purchases.

Section 8.03 Invoices for Credit Card

Department Head will indicate on the documents and/or invoices a description of what the purchase is for and expense code.

Department Head will ensure that all invoices are billed to and addressed to:

City of Milaca
255 1st St E
Milaca MN 56353

If invoice does not indicate billed to City of Milaca, employee will have vendor reissue invoice to reflect correct billed to information. If invoice cannot be corrected, employee will be responsible for purchase.

Credit Card may be sent with employee for conferences for charging of hotel rooms and parking only. Meals, mileage and other authorized expenses will be reimbursed on the travel claim form upon completion by employee. Credit card must be returned to city manager upon return from conference or the next business day.

Employee will sign, date and indicate the purchase on the form when signing credit card out from city manager or other city designee.

The City of Milaca reserves the right to cancel any credit card at any time for any reason.

See Appendix D Minnesota State Statute #471.382 Credit Cards

See Appendix E Credit Card Policy Acknowledgment

Section 9.01 Authorized Hours

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

Section 9.02 Benefits

Privileges granted to a qualified employee in the form of vacation leave, sick leave, holiday leaves, military leave, insurance, or severance pay.

Section 9.03 Benefit Earning Employees

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

Section 9.04 Core Hours

The core hours all employees (exempt and non-exempt) are expected to work hours designated by city manager or department supervisors.

Section 9.05 Demotion

The movement of an employee from one job class to another within the city, where the maximum salary for the new position is lower than that of the employee's former position.

Section 9.06 Direct Deposit

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

Section 9.07 Employee

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

Section 9.08 Employer

The City of Milaca

Section 9.09 Exempt Employee

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

Section 9.10 FICA (Federal Insurance Contributions Act)

FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Certain employees are exempt or partially exempt from these withholdings (e.g., police officers). These amounts may change if required by law.

Section 9.11 Fiscal Year

The period from Jan. 1 to Dec. 31.

Section 9.12 Full-Time Employee

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

Section 9.13 Hours of Operation

The city's regular hours of operation are Monday through Friday. Work hours designated by city manager or department supervisors.

Section 9.14 Non-Exempt Employee

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

Section 9.15 Part-Time Employee

Employees who are required to work less than twenty-four (24) hours per week year-round in an ongoing position.

Section 9.16 Pay Period

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

Section 9.17 Permanent Employee

An employee who has successfully completed a probationary period and who has been appointed to serve on a permanent full-time or permanent part-time basis in a position so provided in the budget or otherwise expressly established by the City Council.

Section 9.18 PERA (Public Employees Retirement Association)

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

Section 9.19 Promotion

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

Section 9.20 Reclassify

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

Section 9.21 Regular pay rate

An employee's hourly or monthly pay rate, excluding special allowances.

Section 9.22 Seasonal Employee

Employees who work only part of the year (100 days or not to exceed 185 days) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.

Section 9.23 Service Credit

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

Section 9.24 Supervisory Employee

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

Section 9.25 Temporary Employee

An employee who has not acquired the status of a permanent employee, and who is employed on a temporary full-time or temporary part-time basis. Employees who work in temporary positions. Temporary jobs might have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

Section 9.26 Training/Probationary Period

A six (6) month period at the start of employment with the city (or at the beginning of a promotion, reassignment, or transfer) designated as a period within which to learn the job, unless covered by a collective bargaining agreement stating a different time frame. The training period is an integral extension of the city's selection process and is used by supervisors for closely observing an employee's work.

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

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

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

Section 9.27 Transfer

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

Section 9.28 Weapons

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

Section 9.29 Workweek

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

See Appendix F City Ordinance #486 Firearms

Section 10.01 Scope

The city manager will manage the hiring process for positions within the city. While the hiring process may be coordinated by staff, the city manager is responsible for the final hiring decision and must approve all hires to city employment. All hires will be made according to merit and fitness, consistent with the provision of any applicable state statute or local ordinance related to the position being filled. The city shall recruit and select the most qualified persons for positions in the city's service. The city shall pursue a policy in the areas of recruitment and selection to insure open competition, to provide equal employment opportunity and to prohibit discrimination because of race, color, creed, religion, sex, national origin, marital status, age, status with regard to public assistance, disability, or other non-job-related factors.

Section 10.02 Features of the Recruitment System

The city manager will determine if a vacancy will be filled through an open recruitment or by promotion, transfer, or some other method. This determination will be made on a case-by-case basis. The majority of position vacancies will be filled through an open recruitment process. It shall be the policy to fill non-management vacancies in the municipal service by promotion of permanent employees insofar as consistent with accepted management practices; to post notice of intent to fill such vacancies for five days; and, in case of equal qualifications, to give consideration to length of service.

Application for employment will generally be made online and by application forms provided by the city. Supplemental questionnaires may be required in certain situations. All candidates must complete and submit the required application materials by the posted deadline, in order to be considered for the position.

The deadline for application may be extended by the city manager. Unsolicited applications will not be kept on file.

Position vacancies may be filled on an "acting" basis as needed. The city manager will approve all acting appointments. Pay rate adjustments, if any, will be determined by the city manager and/or city council.

It shall be the policy to fill non-management vacancies in the municipal service by promotion of permanent employees insofar as consistent with accepted management practices; to pose notice of intent to fill such vacancies for five (5) days; and, in case of equal qualifications, to give consideration to length of service.

Section 10.03 Testing and Examinations

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

1. Keyboarding exercises for data entry positions.
2. Writing exercises for positions requiring writing as part of the job duties.
3. "In-basket" exercise for an administrative support position (sets up real-life scenarios and items likely to be given to the position for action and asks the candidate to list and prioritize the steps they would take to complete the tasks).
4. Scenarios of situations police officers are likely to encounter on the job testing the candidate's decision-making skills (can be role played or multiple-choice questions).

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

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

Section 10.04 Pre-Employment Medical Exams

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

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

When required, the medical exam will be conducted by a licensed physician designated by the city with the cost of the exam paid by the city. (Psychological/psychiatric exams will be conducted by a licensed psychologist or psychiatrist). The physician will notify the city manager a candidate either is or isn't medically able to perform the essential functions of the job, with or without accommodations, and whether the candidate passed a drug and/or alcohol test, if applicable.

If the candidate requires accommodation to perform one or more of the essential functions of the job, the city manager will confer with the physician and candidate regarding reasonable and acceptable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this determination.

Section 10.05 Selection Process

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

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

Section 10.06 Background Checks

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

Section 10.07 Applicants for City Employment

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described below.

CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS: The Milaca Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

Employment positions: All regular part-time or full-time employees of the City of Milaca, and other positions that work with children or vulnerable adults.

In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the police department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the police department to the hiring authority, including the city council, the city manager, or other city staff involved in the hiring process.

Before the investigation is undertaken, the applicant must authorize the police department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor

with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for employment.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 10.08 Applicants for City Licenses Background Checks

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS: The Milaca Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following licenses within the city:

City licenses: liquor, tobacco, gambling, peddler license

In conducting the criminal history background investigation in order to screen license applicants, the police department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the police department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the police department to the city manager.

Before the investigation is undertaken, the applicant must authorize the police department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for the license.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 10.09 Training/Probationary Period

(a) Purpose

The training/probationary period is an integral part of the selection process and will be used for the purpose of closely observing the employee's work and for training the employee in work expectations. Training periods apply to new hires, transfers, promotions, and rehires. Training periods are six (6) months in duration, but may be extended by, for example, an unpaid leave of absence.

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for:

A. Securing the most effective adjustment of employees to their positions.
B. Dismissing employees whose performances do not meet required work standards.

(b) Duration

All original permanent appointments shall be probationary. All employees shall be subject to a probationary period of six (6) months service after appointment. At any time during the probationary period employees may be transferred or dismissed if their performances do not meet the requirements for the position as defined by the city manager.

(c) Promotions

Promotion shall be subject to a probationary period of six (6) months. If employees who have been promoted are found unsuited for the work of the position to which promoted, they may be reinstated to the position and rate of pay of the position from which promoted, so long as a vacancy exists.

(d) Vacation Leave Benefits

During the initial probationary period, but not during a promotional probationary period, employees will not be entitled to vacation leave during the first six (6) months of service. After six (6) months of service, employees will be entitled to vacation leave. The vacation leave is to be accrued from the start of the probationary employment.

(e) Completion

Immediately prior to the expiration of the probationary period, the department head shall notify the city manager in writing whether or not the service of the employee has been satisfactory. If the employee's records and performances are satisfactory, upon approval of the city manager, the employee shall thereupon assume the status of permanent employee at the conclusion of the probationary period. If the employee's records and/or performance are found to be unsatisfactory at any time during the probationary period, the department head shall so notify the city manager and the city manager may, upon written notice, terminate the employee immediately. If employee performances are found to be marginal during the probationary period, the city manager and the respective employee may mutually agree to an extension of the probationary period to permit further possible satisfactory development.

See Appendix G for M.S. Statutes 364.06 and 364.09

See Appendix H Ordinance #399 Ordinance Relating to Criminal History Background for Applicants for City Employment and City Licenses

Section 11.01 Purpose and Objectives

The City of Milaca ("City") has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The city is concerned about providing a safe workplace for its employees, and while the city does not intend to intrude into the private lives of its employees, it is the goal to provide a work environment conducive to maximum safety and optimum work standards. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The use, possession, manufacture, sale, transportation, or other distribution of controlled substance or controlled substance paraphernalia and the unauthorized use, possession transportation, sale, or other distribution of alcohol is contrary to this policy and jeopardizes public safety.

In response to regulations issued by United States Department of Transportation ("DOT"), the city has adopted this Policy on Alcohol and Controlled Substances for employees who hold a commercial driver's license (CDL) to perform their duties.

The city also has a separate Policy on Controlled Substance and Alcohol Testing for employees not covered by DOT regulations.

Given the significant dangers of alcohol and controlled substance use, each applicant and driver must abide by this policy as a term and condition of hiring and continued employment. Moreover, federal law requires the city to implement such a policy.

To ensure this policy is clearly communicated to all drivers and applicants, and in order to comply with applicable federal law, drivers and applicants are required to review this policy and sign the "Certificate of Receipt" portion.

Because changes in applicable law and the city's practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the city will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.

Any revisions to the Federal Omnibus Transportation Employee Testing Act will take precedent over this policy to the extent the policy has not incorporated those revisions.

Section 11.02 Persons Subject to Testing & Types of Tests

All employees are subject to testing who job duties include performing "safety-sensitive duties" on city vehicles that:

1. Have a gross combination weight rating or gross combination weight of 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 10,000 pounds, whichever is greater; or
2. Have a gross vehicle weight rating or gross vehicle weight of 26,0001 or more pounds whichever is greater; or
3. Are designed to transport 16 or more passengers, including the driver; or
4. Are of any size and are 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).

The following functions are considered safety-sensitive:

1. all time waiting to be dispatched to drive a commercial motor vehicle
2. all time inspecting, servicing, or conditioning a commercial motor vehicle
3. all time driving at the controls of the commercial motor vehicle
4. all other time in or upon a commercial motor vehicle (except time spent resting in a sleeper berth)
5. all time loading or unloading a commercial motor vehicle, attending the same, giving or receiving receipts for shipments being loaded or unloaded, or remaining in readiness to operate the vehicle
6. all time repairing, obtaining assistance, or attending to a disable commercial motor vehicle.
7. The city may test any applicant to whom a conditional offer of employment has been made and any driver for controlled substance and alcohol under any of the following circumstances:

Section 11.03 Pre-Employment Testing

All applicants, including current employees seeking a transfer, applying for a position where duties include performing safety-sensitive duties described above, will be required to take a drug test prior to the first time a driver performs a safety-sensitive function for the city. A driver may not perform safety-sensitive functions unless the driver has received a controlled substance test result from the Medical Review Officer ("MRO") indicating a verified negative test result. In addition to pre-employment-controlled substance testing, applicants will be required to authorize in writing former employers to release alcohol test results of .04 or greater, positive controlled substance test results, refusals to test,

other violations of drug and alcohol testing regulations, and completion of return to duty requirements within the preceding three years.

The city will contact the candidate's DOT regulated previous and current employers within the last three years for drug and alcohol test results as referenced above, and review the testing history if feasible before the employee first performs safety-sensitive functions for the city.

Section 11.04 Post-Accident Testing

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the city will test each surviving driver for controlled substances and alcohol when the following occurs:

1. The accident involves a fatality or
2. The driver receives a citation for a moving traffic violation from the accident and an injury is treated away from the accident scene or
3. The driver receives a citation for a moving traffics violation from the accident and a vehicle is required to be towed from the accident scene.

The following chart summarizes when DOT post-accident testing needs to be conducted:

Type of accident involved	**Citation issued to the DOT covered CDL driver?**	**Test must be performed by the City**
i. Human fatality	YES	YES
	NO	YES
ii. Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
iii. Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

A driver subject to post-accident testing must remain readily available or the driver will be deemed to have refused to submit to testing. This requirement to remain ready for testing does not preclude a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

Section 11.05 Post – Accident Controlled Substance Testing

Drivers are required to submit a urine sample for post-accident-controlled substance testing as soon as possible. If the driver is not tested within thirty-two (32) hours after the accident, the city will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not promptly administered.

Section 11.06 Post- Accident Alcohol and Drug Testing

Drivers are required to submit to post-accident alcohol and drug testing as soon as possible. After an accident, consuming alcohol is prohibited until the driver is tested. If the driver is not tested within two (2) hours after the accident, the city will prepare and maintain on file a record stating why the test was not administered within that time. If eight hours have elapsed since the accident and the driver has not submitted to an alcohol test, the city will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not administered.

The city may accept the results of a blood or breath test in place of an alcohol test and urine test for the use of controlled substances if:

- The tests are conducted by federal, state, or local officials having independent authority for the test, and
- The tests conform to applicable federal, state, or local testing requirements, and
- The test results can be obtained by the city.

Whenever such a test is conducted by a law enforcement officer, the driver must contact the city and immediately report the existence of the test, providing the name, badge number, and telephone number of the law enforcement officer who conducted the test.

Section 11.07 Random Testing

Every driver will be subject to unannounced alcohol and controlled substance testing on a random selection basis. Drivers will be selected for testing by use of a scientifically valid method under which each driver has an equal chance of being selected each time selections are made. These random tests will be conducted throughout the calendar year. Each driver who is notified of selection for random testing must cease performing safety-sensitive functions and report to the designated test site immediately. It is mathematically possible drivers may be selected be picked and tested more than once, and others not at all.

If a driver is selected for a random test while he or she is absent, on leave or away from work, that driver may be required to undergo the test when he or she returns to work.

Section 11.08 Reasonable Suspicion Testing

When a supervisor has reasonable suspicion to believe a driver has engaged in conduct prohibited by federal law or this policy, the city will require the driver to submit to an alcohol and/or controlled substance test.

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." In the case of controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

The required observations for reasonable suspicion testing will be made by a supervisor or other person designated by the city who has received appropriate training in identification of actions, appearance and conduct of a driver which are indicative of the use of alcohol or controlled substance. These observations leading to an alcohol or controlled substance test, will be reflected in writing and signed by the supervisor who made the observations. The record will be retained by the city. The person who makes the determination that reasonable suspicion exists to conduct testing, will not be the person conducting the testing, which shall instead be conducted by another qualified person.

Alcohol testing is authorized only if the observations are made during, just before, or just after the driver has ceased performing such functions. If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the city will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the city will prepare and maintain on file a record stating the reasons the alcohol test was not administered, and will cease attempts to conduct the alcohol test.

Notwithstanding the absence of a reasonable suspicion test, no driver may 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 use, nor will the city permit the driver to perform or continue to perform safety-sensitive functions until (1) an alcohol test is administered and the driver's alcohol concentration is less than .02; or (2) twenty-four (24) hours have elapsed following the determination of reasonable suspicion.

Section 11.09 Return-to-Duty Testing

The city reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except

as otherwise required by law, the city is not obligated to reinstate or requalify such drivers for a first positive test result.

Should the city consider reinstatement of a DOT covered driver, the driver must undergo a Substance Abuse Professional ("SAP") evaluation and participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.

The employee is responsible for paying for all costs associated with the return-to-duty test. The controlled substance test will be conducted under direct observation.

Section 11.10 Follow-Up Testing

The city reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the city is not obligated to reinstate or requalify such drivers.

Should the city reinstate a driver following a determination by a Substance Abuse Professional (SAP) that the driver is in need of assistance in resolving problems associated with alcohol use and/or use of controlled substance, the city will ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of such follow-up testing will be directed by the SAP and will consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines such test is no longer necessary. The employee is responsible for paying for all costs associated with follow-up tests.

Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.

Section 11.11 Cost of Required Testing

The city will pay for the cost of pre-employment, post-accident, random, and reasonable suspicion-controlled substance and alcohol testing requested or required of all job applicants and employees. The driver must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.

Section 11.12 Required Prior Controlled Substance and Alcohol Checks for Applicants

The city will conduct prior drug and alcohol checks of applicants for employment to drive a commercial motor vehicle. Applicants must execute a consent form authorizing the city to obtain the required information. The city will obtain (pursuant to the applicant's written consent) information on the applicant's alcohol test with a concentration result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding three (3) years which are maintained by the applicant's previous employers. The city will obtain all information concerning the applicant which is maintained by the applicant's previous employers within the preceding three (3) years pursuant to DOT and FMCSA controlled substance and alcohol testing regulations. The city will review such records, if feasible, prior to the first time a driver performs safety-sensitive functions.

Section 11.13 Prohibited Conduct

The following conduct is explicitly prohibited by applicable DOT and FMCSA regulations and therefore constitutes violation of city policy:

(a) Under the influence of alcohol when reporting for duty or while on duty
No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02, but less than 0.04, will be removed from duty for 24 hours, escorted home and placed on vacation leave for hours missed from work.

(b) On-Duty Use of Alcohol
No driver may use alcohol while performing safety-sensitive functions.

(c) Pre-Duty Use of Alcohol
No driver may perform safety-sensitive functions within four (4) hours after using alcohol. If an employee has had alcohol within four hours, they are to notify their supervisors before performing any safety-sensitive functions.

(d) Alcohol Use Following an Accident
No driver required to take a post-accident alcohol test may use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.

(e) Refusal to Submit to a Required Alcohol or Controlled Substance Test
No applicant or driver may refuse to submit to pre-employment, post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance testing.

In the event an applicant or driver does in fact refuse to submit to required alcohol or controlled substance testing, no test will be conducted. Refusal by a driver to submit to controlled substance or alcohol testing will be considered a positive test result, will cause disqualification from performing safety-sensitive functions, and may appear on the driver's permanent record. Drivers who refuse to submit to testing will be subject to discipline, up to an including termination. If an applicant refuses to

submit to pre-employment-controlled substance testing, any applicable conditional offer will be withdrawn.

For purposes of this section, a driver is considered to have refused to submit to an alcohol or controlled substance test when the driver:

1. Fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.
2. Fails to provide adequate urine for controlled substance testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing.
3. Fails to report for testing within a reasonable period of time, as determined by the city.
4. Fails to remain at a testing site until testing is complete.
5. In the case of directly observed or monitored collection, fails to permit observation or monitoring.
6. Fails or declines to take a second test as required by the city and/or collector.
7. Fails to undergo a medical examination as directed by the city pursuant to federal law.
8. Refuses to complete and sign the alcohol testing form, to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise cooperate in any way that prevents the completion of the testing process.
9. Engages in conduct that clearly obstructs the test process.

(f) Altering or attempting to alter a urine sample or breath test

A driver altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample, will be subject to providing a specimen under direct observation. Both specimens will be subject to laboratory testing. In such case, the employee may be subject to immediate termination of employment and any job offer made to an applicant will be immediately withdrawn.

Section 11.14 Controlled Substance Use

No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver in writing the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers must forward this information regarding therapeutic controlled substance use to the city immediately after receiving any such advice.

Having a medical marijuana card and/or a cannabis prescription from a physician does not allow anyone to use or possess that drug in the city's workplace. The federal government still classifies cannabis as an illegal drug. *There is no acceptable concentration of marijuana metabolites in the urine or blood of an employee who performs safety-sensitive duties for the city.* Employees are still subject to being tested under our policies, as well as for being disciplined, suspended or terminated after testing positive for cannabis while at work.

No driver may report for duty, remain on-duty or perform a safety-sensitive function if the driver tests positive for controlled substance.

Section 11.15 Collection and Testing Procedures

Drivers are required to report immediately upon notification to the collection site. For random tests conducted off site, employees may use a city vehicle to drive to the collection site. Drivers will be expected to provide a photo ID card for identification to the collection staff. All drivers will be expected to cooperate with collection site personnel request to remove any unnecessary outer garments such as coats, sweaters or jackets and will be required to empty their pockets. Collection personnel will complete a Federal Custody and Control Form ("CCF") which drivers providing a sample will sign as well.

Section 11.16 Alcohol Testing

Employees will be tested for alcohol just before, during, or immediately following performance of a safety-sensitive function. If a driver is also taking a DOT controlled substance test, generally speaking, the alcohol test is completed before the urine collection process begins. Screening tests for alcohol concentration will be performed utilizing a non-evidential screening device included by the National Highway Traffic Safety Administration on its conforming products list (e.g., a saliva screening device) or an evidential breath testing device ("EBT") operated by a trained breath alcohol technician ("BAT") at a collection site. An alcohol test usually takes approximately 15 minutes if the result is negative. If a driver's first attempt is positive (with an alcohol concentration of .02 or greater), the driver will be asked to wait at least 15 minutes and then be tested again. The driver may not eat, drink or place anything in his/her mouth (e.g., cigarette, chewing gum) during this time. All confirmation tests will be conducted in a location that affords privacy to the driver being tested, unless unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident) make it impracticable to provide such privacy. Any results less than 0.02 alcohol concentration is considered a "negative" test result.

If the driver attempts and fails to provide an adequate amount of breath, he/she will be referred to a physician to determine if the driver's inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the city by the collection site staff.

Section 11.17 Controlled Substance Testing

The city will use a “split urine specimen” collection procedure for controlled substance testing. Collection of urine specimens for controlled substance testing will be conducted by an approved collector and will be conducted in a setting and manner to ensure the driver’s privacy.

Controlled substance testing generally takes about 15 minutes. At the collection site, the driver will be given a sealed container and must provide at least 45 ml of urine for testing. Once the sample is provided the collection personnel will check the temperature and color and look for signs of contamination. The urine is then split into two separate specimen containers (A, or “primary,” and B, or “split”) with identifying labels and security seals affixed to both. The collection facility will be responsible for maintaining a proper chain of custody for delivery of the sample to a DHHS-certified laboratory for analysis. The laboratory will retain a sufficient portion of any positive sample for testing and store that portion in a scientifically-acceptable manner for a minimum 365-day period.

If an employee fails to provide a sufficient amount of urine to permit a controlled substance test (45 milliliters of urine), the collector will discard the insufficient specimen, unless there is evidence of tampering with that specimen. The collector will urge the driver to drink up to 40 ounces of fluid, distributed reasonably over a period of up to three hours, or until the driver has provided a sufficient urine specimen, whichever occurs first. If the driver has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collector will cease efforts to attempt to obtain a specimen. The driver must then obtain, within five calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee’s failure to provide a sufficient specimen. If the licensed physician concludes the driver has a medical condition, or with a high degree of probability could have, precluded the driver from providing a sufficient amount of urine, the city will consider the test to have been canceled. If a licensed physician cannot make such a determination, the city will consider the driver to have engaged in a refusal to test, and will take appropriate disciplinary action under this policy.

The primary specimen is used for the first test. If the test is negative, it is reported to the MRO who then reports the result, following a review of the CCF Form for compliance, to the city. If the initial result is positive or non-negative, a “confirmatory retest” will be conducted on the primary specimen. If the confirmatory re-test is also positive, the result will be sent to the MRO. The MRO will contact the driver to verify the positive result. If the MRO is unable to reach the driver directly, the MRO must contact the city who will direct the driver to contact the MRO.

Section 11.18 Review of Test Results

The MRO is a licensed physician with knowledge and clinical experience in substance abuse disorders, and is responsible for receiving and reviewing laboratory results of the controlled substances test as well as evaluating medical explanations for certain drug test results. Prior to making a final decision to verify a positive test result, the MRO will give the driver or the job applicant an opportunity to discuss the test result, typically through a phone call. The MRO, or a staff person under the MRO’s supervision, will contact the individual directly, on a confidential basis, to determine whether the individual wishes to discuss the test result. If the employee or job applicant wishes to discuss the test result:

1. The individual may be required to speak and/or meet with the MRO, who will review the individual's medical history, including any medical records provided.
2. The individual will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information which may explain the positive test result. If the employee or job applicant, believes a mistake was made at the collection site, at the labor, on a chain-of-custody form, or that the drug test results are caused by lawful substance use, the employee should tell the MRO.
3. If there is some new information which may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to further clarify the results; and
4. A final determination will be made by the MRO that the test is either positive or negative, and the individual will be so advised.

If the MRO upholds the positive, adulterated or substituted drug determination, that test result will be provided to the city. There is no opportunity to explain a positive alcohol test provided in the DOT regulations.

The driver can request the MRO to have the split specimen (the second "B" container) tested at the driver's expense. This includes all costs that may be associated with the re-test. There is no split specimen testing for an invalid result. The driver has 72 hours after they have been notified of the positive result to make this request. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory to send the split specimen to another certified laboratory for analysis.

If an employee has not contacted the MRO within 72 hours, the employee may present information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the employee from making timely contact. If the MRO concludes there is legitimate explanation for the employee's failure to contact within 72 hours, the MRO will direct the analysis of the split specimen.

If the results of the split specimen are negative, the city may pay for all costs associated with the rest and there will be no adverse action taken against the employee or job applicant.

Section 11.19 Notification of Test Results

(a) Employees

The city will notify a driver of the results of random, reasonable suspicion, and post-accident tests for controlled substance if the test results are verified positive, and will inform the driver which controlled substance or substances were verified as positive. Results of alcohol tests will be immediately available from the collection agent.

(b) Right to Confirmatory Retest

Within seventy-two (72) hours after receiving notice of a positive controlled substance test result, an applicant or driver may request through the MRO a re-analysis (confirmatory retest) of the driver's split specimen. Action required by federal regulation as a result of a positive controlled substance test (e.g., removal from safety-sensitive functions) will not be stayed during retesting of the split specimen. If the

result of the confirmatory retest fails to reconfirm the presence of the controlled substance(s) or controlled substance metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test.

(c) Dilute Specimens

Dilute Negatives Creatinine concentration of specimen is equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL. If the city receives information that a driver has provided a dilute negative specimen, the city will direct a recollection, pursuant to the MRO's direction, under direct observation. Creatinine concentration of specimen is greater than 5 mg/dL. If the MRO advises the city that the employee's dilute negative specimen contains a creatinine concentration greater than five mg/dL the city will direct the driver to take a second screening test, not under direct observation. The second screening test will be performed as soon as possible after the city receives word of the dilute negative specimen.

Note: City can choose only to require retesting for dilute negatives where the Creatinine concentration of specimen is greater than 5 mg/dL for pre-employment testing, reasonable suspicion, post-accident, or random testing or for all of these tests.

Section 11.20 Consequences for Drivers Engaging in Prohibited Conduct

(a) Job Applicants

Any applicable conditional offer of employment will be withdrawn from a job applicant or employee seeking a transfer who refuses to be tested or tests positive for controlled substance pursuant to this policy.

(b) Employees

Drivers who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substance, as defined earlier in this policy, are subject to the following consequences:

- **Removal from Safety-Sensitive Functions**

No driver may perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by federal law.

No driver who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 may perform or continue to perform safety-sensitive functions for the city, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty, but not less than twenty-four (24) hours following administration of the test.

If a driver tests positive under this policy, or is found to have an alcohol concentration of .02 or greater but less than .04, the driver will be removed from safety sensitive duties and escorted home; the driver should not drive home, but be escorted to his or her home. The driver will then be placed on vacation, for hours missed from work.

- **Notification of Resources Available**

The city will advise each driver who has engaged in conduct prohibited by federal law or who has a positive alcohol or controlled substance test of the resources available to the driver, in evaluating and resolving problems associated with the misuse of alcohol and use of a controlled substance, including the names, addresses, and telephone numbers of Substance Abuse Professionals and counseling and treatment programs. The city will provide this SAP listing in writing at no cost to the driver.

- **Discipline**

The city reserves the right to impose whatever discipline the city deems appropriate in its sole discretion, up to and including termination for a first occurrence, against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the city is not obligated to reinstate or requalify such drivers following a first positive confirmed controlled substance or alcohol test result.

- **Evaluation, and Return to Duty Testing**

Should the city wish to consider reinstatement of a driver who engaged in conduct prohibited by federal law and/or who had a positive alcohol or controlled substance test, the driver must undergo a SAP evaluation, participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP will determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use and will ensure the driver properly follows any rehabilitation program and submits to unannounced follow-up alcohol and controlled substance testing.

- **Follow-Up Testing**

If the driver passes the return-to-duty test, he/she will be subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency for such follow-up testing will be as directed by the SAP and will consist of at least six tests in the first twelve months. These tests will be conducted under direct observation.

- **Refusal to test**

All drivers and applicants have the right to refuse to take a required alcohol and/or controlled substance test. If an employee refuses to undergo testing, the employee will be considered to have tested positive and may be subject to disciplinary action, up to and including termination. Refer to Refusing to Test provided earlier in this policy.

- **Responsibility for Cost of Evaluation and Rehabilitation**

Drivers will be responsible for paying the cost of evaluation and rehabilitation (including services provided by a Substance Abuse Professional) recommended or required by the city or FMCSA or DOT rules, except to the extent that such expense is covered by an applicable employee benefit plan or imposed on the city pursuant to a collective bargaining agreement.

Section 11.21 Loss of CDL License for Traffic Violations in Commercial and Personal Vehicles

Effective August 1, 2005, the FMCSA established strict rules impacting when CDL license holders can lose their CDL for certain traffic offenses in a commercial or personal vehicle. Employees are required to notify their supervisor immediately if the status of their CDL license changes in anyway.

Section 11.22 Maintenance and Disclosure of Records

Except as required or authorized by law, the city will not release driver's information that is contained in records required to be maintained by this policy or FMCSA and DOT regulations. In addition, a driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or a controlled substance, including any records pertaining to his or her alcohol or controlled substance tests.

Section 11.23 Policy Contact for Additional Information

If you have any questions about this policy or the city's controlled substance and alcohol testing procedures, you may contact your immediate city manager, obtain additional information.

Section 11.24 Definitions

Accident: an occurrence involving a commercial motor vehicle operating on a public road which results in a fatality; bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. The term "accident" does not include an occurrence involving only boarding and alighting from a stationary motor vehicle; an occurrence involving only the loading or unloading of cargo; or an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle unless the vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 C.F.R. § 177.823; 49 C.F.R. § 382.303(a); 49 C.F.R. § 382.303(f).

Alcohol Concentration (or Content): the alcohol on a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. 49 C.F.R. § 382.107.

Alcohol Use: the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol. 49 C.F.R. § 382.107.

Applicant: a person applying to drive a commercial motor vehicle. 49 C.F.R. § 382.107.

Breath Alcohol Technician or BAT: an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT). 49 C.F.R. § 40.3.

City: City of Milaca

City Premises: all job sites, facilities, offices, buildings, structures, equipment, vehicles and parking areas, whether owned, leased, used or under the control of the city.

Collection Site: a place designated by the city where drivers present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of alcohol or controlled substances. 49 C.F.R. § 40.3.

Commercial Motor Vehicle: a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight rating or gross combination weight of 26,001 or more pounds, whoever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or (2) has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or (3) is designed to transport sixteen (16) or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be 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 Regulation. (49 C.F.R. part 172, subpart F) § 382.107.

Confirmation (or Confirmatory) Test: For alcohol testing means a second test, following a positive non-evidential test, following a positive non-evidential (e.g., saliva) screening test or a breath alcohol screening test with the result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substance testing, "Confirmation (or Confirmatory) Test" means a second analytical procedure to identify the presence of a specific controlled substance or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. 49 C.F.R. § 382.107.

Controlled Substance: those substances identified in 49 C.F.R. § 40.85(. Marijuana, amphetamines, opiates, (including heroin), phencyclidine (PCP), cocaine, and any of their metabolites are included within this definition. 49 (C.F.R. § 382.107; 49 C.F.R. § 40.85.

Department of Transportation or DOT: the United States Department of Transportation.

DHHS: the Department of Health & Human Services or any designee of the Secretary, Department of Health & Human Services. 49 C.F.R. § 40.3.

Disabling Damage: damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include damage which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, headlight or tail light damage or damage to turn signals, horn or windshield wipers which make them inoperative. 49 C.F.R. § 382.107.

Driver: 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 who are either directly employed by or under lease to the city or who operate a commercial motor vehicle at the direction of or with the consent of the city. For purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle. 49 C.F.R. § 382.107.

Drug: Has the same meaning as "controlled substance."

Employee seeking a transfer: Refers to an employee who is not subject to DOT regulations seeking a transfer to a position that will subject them to DOT regulations in the sought after position.

Evidential Breath Testing Device or EBT: a device approved by the National Highway Traffic Safety Administration ("NHTSA") for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices." 49 C.F.R. § 40.3.

Federal Motor Carrier Safety Administration or FMCSA: the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

Medical Review Officer or MRO: a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by a controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information. 49 C.F.R. § 40.3

Performing (a Safety-Sensitive Function): any period in which a driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. 49 C.F.R. § 382.107.

Positive Test Result: a finding of the presence of alcohol or controlled substance, or their metabolites, in the sample tested in levels at or above the threshold detection levels established by applicable law.

Reasonable Suspicion: a belief a driver has engaged in conduct prohibited by the FMCSA controlled substance and alcohol testing regulations, except when related solely to the possession of alcohol, based on specific contemporaneous, articulable observations made by a supervisor or city official who has received appropriate training concerning the appearance, behavior, speech or body odors of the driver. The determination of reasonable suspicion will be made in writing on a Reasonable Suspicion Record Form during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy. In the case of a controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

Safety-Sensitive Function: all time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

1. All time at a city plant, terminal, facility, or other property, or on any public property,
2. waiting to be dispatched, unless the driver has been relieved from duty by the employer;
3. All time inspecting equipment as required by 49 C.F.R. § 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
4. All time spent at the driving controls of a commercial motor vehicle in operation;

5. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 C.F.R. § 393.76);

6. 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

7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. 49 C.F.R. § 382.107.

Screening Test (also known as Initial Test): In alcohol testing, mean an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in her or her system. Screening tests may be conducted by utilizing a non-evidential screening device included by the National Highway Traffic Administration on its conforming products list (e.g., a saliva screening device) or an evidential breath testing device ("EBT") operated by a trained breath alcohol technician ("BAT"). In controlled substance testing, "Screening Test" means an immunoassay screen to eliminate "negative" urine specimens form further consideration. 49 C.F.R. § 382.107.

Substance Abuse Professional" or "SAP": a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, licensed or certified social worker, licensed or certified employee assistance professional, or licensed or certified addiction counselor (certified by the National Association of Alcoholism and Controlled Substance Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. 49 C.F.R. § 40.281.

See Appendix I - What Employees Need to Know About DOT Drug and Alcohol Testing

Section 12.01 Purpose and Objectives

The City of Milaca has a vital interest in maintaining safe, healthful, and efficient working conditions for all employees including seasonal and volunteer firefighters, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City of Milaca does not intend to intrude into the private lives of its employees, but strongly believes that a drug- and alcohol-free workplace is in the best interest of employees and the public alike. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The City of Milaca's Drug and Alcohol Testing Non-DOT policy has been established for the purpose of providing a safe workplace for all.

City employees and applicants required to hold a commercial driver's license by the United States Department of Transportation ("DOT") for their job will be tested under the city's Policy on Controlled Substance and Alcohol Testing for Commercial Drivers (the "DOT Policy"). All other employees and job applicants offered employment with the city must undergo testing as described by this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the "policy acknowledgement." A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

Section 12.02 Persons Subject to Testing and Circumstances Under Which Testing May Be Required

Under this policy, the city may test any applicant to whom an offer of employment has been made and may test employees for alcohol and/or drugs, including cannabis, under the following circumstances with a properly accredited or licensed testing laboratory, in accordance with Minn. Stat. § 181.953, subd. 1.

(1) Pre-Employment Testing

Every job applicant offered employment with the city receives the offer conditioned upon successful completion of an alcohol and/or drug test, among other conditions. The city will not request or require a job applicant to undergo cannabis testing or withdraw an offer of employment based on cannabis testing, except with respect to the categories of positions listed below in the definition of "drug," or if otherwise required by state of federal law. If the job offer is withdrawn based on alcohol and/or drug test results, the city will inform the applicant of the reasons for the withdrawal. A failure of the alcohol and/or drug test, a refusal to take the test, or failure to meet other conditions of the offer will result in

a withdrawal of the offer of employment even if the applicant's provisional employment has begun. A negative or positive dilute test result (following a second collection), which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

Temporary and seasonal employees are also subject to this policy. May want to address when testing will be conducted for temporary and seasonal rehires.

(2) Reasonable Suspicion Testing

Consistent with Minn. Stat. § 181.951, subd. 3, employees will be subject to alcohol and/or drug testing, including cannabis testing, when reasonable suspicion exists to believe that the employee:

1. Is under the influence of alcohol or a drug; or
2. Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol, including cannabis, while working, while on city property, or while operating city vehicles, machinery or any other type of equipment; or
3. Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
4. Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or drugs or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the city's policies concerning alcohol or drugs may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection service will take the urine or blood sample and will forward the sample to an approved laboratory for testing.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all city employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify the City Manager of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the city will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

(3) Treatment Program Testing

In accordance with Minn. Stat. § 181.951, subd. 6, the city may request or require an employee to undergo drug and alcohol testing, including cannabis testing, if the employee has been referred by the city for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug or alcohol testing, including cannabis testing, without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

(4) Routine Physical Examination Testing

The city may request or require an employee to undergo drug and/or alcohol testing—but not cannabis testing, except for the categories of positions listed above for which cannabis is considered a drug or unless otherwise required by state of federal law–as part of a routine physical examination. The city, in accordance with Minn. Stat. § 181.951, subd. 3, will request or require this type of testing no more than once annually, and the employee will be provided with at least two weeks' written notice that the test will be required as part of the physical examination.

(5) Random Testing

In accordance with Minn. Stat. § 181.951, subd. 4, the city may require an employee to submit to random testing, including cannabis testing, if the employee is in a safety-sensitive position. The city may require a new drug test if it's been at least one year from the date of their last drug screen.

Section 12.03 Right of Refusal

Employees and job applicants have the right to refuse to submit to an alcohol and/or drug test under this policy. However, such a refusal will subject an employee to immediate termination.

If an applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.

An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee is subject to immediate termination of employment, and in the case of an applicant, the job offer will be immediately withdrawn.

Section 12.04 Refusal on Religious Grounds

An employee or job applicant who, on religious grounds, refuses to undergo drug and/or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug and/or alcohol testing of a urine sample.

Section 12.05 Cost of Required Testing

The city will pay for the cost of all drug and/or alcohol testing requested or required of all job applicants and employees, except for confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

Section 12.06 Prohibition against Use and Possession of Drugs and Alcohol

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, including cannabis, or drug paraphernalia, while on duty; while on city premises; while operating any city vehicle, machinery, or equipment; or when performing any city business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the- counter drugs used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

Besides having a zero-tolerance policy for the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils, edibles or beverages containing cannabinoids, or pills) on the worksite by a person working as an employee at the city or while "on call" and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug here. Likewise, the fact that cannabis may be lawfully purchased and consumed does not permit anyone to use, possess, or be impaired by them here. The federal government still classifies cannabis as an illegal drug, even though some states, including Minnesota, have decriminalized its possession and use. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates our equipment or vehicles or who is on one of our worksites. Applicants and employees are still subject to being tested under our drug and alcohol testing policy.

And employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

Section 12.07 Driving While Impaired of Alcohol or Drug(s)

Employees are prohibited from being under the influence of alcohol or drugs, including cannabis, or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; whole on the city's premises; while operating any city vehicle, machinery, or equipment; or when performing any city business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter drug used as intended by the manufacturer.

A conviction of driving while impaired in a city-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting city business, may result in discipline, up to and including discharge.

Section 12.08 Criminal Drug Convictions

Any employee convicted of any criminal drug statute must notify his or her supervisor and the city manager in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a drug-related conviction, the city will take appropriate

personnel action against the employee up to and including discharge or require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the city is receiving federal grants or contracts of over $25,000, the city will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Section 12.09 Failure to Disclose Lawful Drugs

Employees taking a lawful drug, including prescription and over-the-counter drugs, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

Section 12.10 Review and Notification of Test Results

Notification of Negative Test Results

In the case of job applicants and in accordance with Minn. Stat. § 181.953, city manager will notify a job applicant of a negative drug result within three days of receipt of result by the city, and the hiring process will resume. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the city within three working days of the confirmatory test result. A "Negative Test Results Notification" form will be sent to the job applicant, and the job applicant may request a copy of the test result report from the city manager.

In the case of current employees and in accordance with Minn. Stat. § 181.953, city manager will notify the employee of a negative drug and/or alcohol result within three days of receipt of result by the city. A "Negative Test Results Notification" form will be sent to the employee, and he or she may request a copy of the test result report from city manager.

Notification of Positive Test Results

In the event of a confirmed positive blood or urine alcohol and/or drug test result, the city will notify the employee of a positive drug and/or alcohol result within three days of receipt of the result. City manager will send to the employee or job applicant a "Positive Test Results Notification" letter containing further instructions. The employee or job applicant may contact city manager to request a copy of the test result report if desired. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the city within three working days of the confirmatory test result.

Section 12.11 Right to Provide Information after Receiving Test Results

Within three working days after notice of a positive drug or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the city to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the city will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.

Section 12.12 Right to Confirmatory Retest

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the city in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the city will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with Minn. Stat. § 181.953, subd. 3, the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same drug and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the city's job offer will be reinstated, and the city will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the city will reimburse the employee for the actual cost of the confirmatory retest.

Section 12.13 Access to Reports

In accordance with Minn. Stat. § 181.953, subd. 10, an employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.

Section 12.14 Dilute Specimens

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate termination.

Section 12.15 Consequences for Employees Engaging in Prohibited Conduct

Job Applicants

The city's conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

Employees:

1. No Adverse Action without Confirmatory Test. The city will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. Suspension Pending Test Result. The city may temporarily suspend a tested employee with or without pay or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the city believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home and will be provided appropriate arrangements for return transportation to his or her residence. In accordance with Minn. Stat. § 181.953, subd. 10, an employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

Section 12.16 Discipline and Discharge

Confirmatory Positive Test Result:

The city will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

1. The city has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the city after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and
2. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

Other Misconduct:

Nothing in this policy limits the right of the city to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other city personnel policies.

Section 12.17 Emergency Call Back to Work Provisions

If an employee is called out for a city emergency and he or she reports to work and is suspected of being under the influence of drugs or alcohol, he or she will not be subject to the testing procedures of this policy but may be subject to discipline and will not be allowed to work.

Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol and/or drugs and who is called out for a city emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

Section 12.18 Non-Discrimination

The City of Milaca policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., Ch. 363A.03, disability does not include conditions resulting from alcohol or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property of the safety of individuals.

Furthermore, the city will not retaliate against any employee for asserting his or her rights under this policy.

Section 12.19 Policy Contact for Additional Information

If you have any questions about this policy or the city's drug and alcohol testing procedures, you may contact your immediate supervisor or the city manager to obtain additional information.

Section 12.20 Definitions

Alcohol: Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

Alcohol use or usage: Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant: Means a person applying for a job with the city.

Cannabis: Means cannabis and its metabolites, including cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products.

Cannabis testing: Means analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of cannabis in the sample tested.

City: Means the City of Milaca.

City premises: Means, but is not limited to, all city job sites and work areas. For the purposes of this policy, city premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the city.

City vehicle: Means any vehicle which employees are authorized to use solely for city business when used at any time; or any vehicle owned or leased by the city when used for city business.

Collection site: Means a place designated by the city where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of drugs and alcohol.

Confirmatory test: Means a drug and/or alcohol test on a sample to substantiate the results of a prior drug and/or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Drug: Includes any "controlled substance" as defined in Minn. Stat. § 152.01, subd. 4, and also includes all cannabinoids, including those that are lawfully available for public consumption that do not otherwise qualify as being a "controlled substance" as defined in Minn. Stat. § 152.01, subd. 4. Cannabis and its metabolites are considered a "drug" for positions in the following categories, regardless of the kind of testing involved: safety sensitive positions; peace officer positions; firefighter positions; positions requiring face-to-face care, training, education, supervision, counseling or medical assistance to children, vulnerable adults or patients receiving treatment, examination or emergency care for a medical, psychiatric or mental condition; positions requiring a commercial driver's license or requiring the employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing; positions funded by a federal grant; or other positions for which state or federal law requires testing of a job applicant or employee.

Drug and/or alcohol testing, and drug and/or alcohol test: Means analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. §181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" do not include cannabis or cannabis testing, unless stated otherwise.

Drug paraphernalia: Has the meaning set forth in Minn. Stat. § 152.01, subd. 18.

Employee: Means a person who performs services for compensation for the city and includes independent contractors except where specifically noted in this policy.

Initial screening test: Means a drug and/or alcohol test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Job applicant: Means a person who applies to become an employee of the city and includes a person who has received a job offer made contingent on the person passing drug testing.

Positive test result: Means a finding of the presence of alcohol, drugs, or their metabolites that exceeds the cutoff levels established by the city. Minimum threshold detection levels are subject to change as determined in the city's sole discretion.

The city will partner with the testing laboratory before establishing cutoff levels.

Random selection basis: Means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism.

Reasonable suspicion: Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-sensitive position: Means a job, including any supervisory or management position, in which an impairment caused by drug, alcohol, and/or cannabis usage would threaten the health or safety of any person.

Under the influence: Means (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the city to conclude that the employee is impaired because of illegal drug use or alcohol use.

See Appendix J Minnesota State Statute #181.953

See Appendix K Minnesota State Statute #181.951

See Appendix L Minnesota State Statute #152.01

See Appendix M Minnesota State Statute #176.011 Subd. 16

See Appendix N Minnesota State Statute #363A.03

See Appendix O Minnesota State Statute #152.01 Subd. 1-4, 18

Section 13.01 Job Descriptions

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

A job description is prepared for each position within the city. Each job description will include: position title, department, supervisor's title, FLSA status (exempt or non-exempt), primary objective of the position, essential functions of the position, examples of performance criteria, minimum requirements, desirable training and experience, supervisory responsibilities (if any), and extent of supervisory direction or guidance provided to position. In addition, job descriptions may also describe the benefits offered and potential career path opportunities as a means to entice a qualified pool of applicants. Good attendance and compliance with work rules and policies are essential functions of all city positions.

Prior to posting a vacant position, the existing job description is reviewed by the city manager to ensure the job description is an accurate reflection of the position and the stated job qualifications do not present artificial barriers to employment.

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

Section 13.02 Assigning and Scheduling Work

Assignment of work duties and scheduling work is the responsibility of the supervisor subject to the approval of the city manager.

Section 13.03 Job Descriptions and Classifications

Assignment of job titles, establishment of minimum qualifications, and the maintenance of job descriptions and related records is the responsibility of the city manager. Positions having the same duties and responsibilities shall be classified and compensated on a uniform basis.

Section 13.04 Layoff

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

After fourteen (14) calendar days prior written notice the city manager may lay off permanent employees because of shortage of work or funds, abolition of positions, or other reasons outside the employee's control which do not reflect discredit on the service of the employee. The city manager may lay off temporary employees with no prior notice. Except for abolition of positions, permanent employees shall not be laid off while there are temporary or probationary employees serving in the same position for which permanent employees are qualified, eligible, and available. Length of service in the same position classification shall be considered, but shall not be binding.

Section 14.01 Work Hours

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

Part-time, seasonal, and temporary positions:

In order to comply with law while avoiding penalties, part-time employees will be scheduled with business needs and in a manner that ensures positions retain part-time status as intended. Employees in part-time and temporary positions will not be permitted to work more than 24 hours/week, including hours worked and paid leave (such as annual leave or holiday leave). Seasonal may work 40 hours a week but not more than 185 days under PERA regulations.

Section 14.02 Core Hours

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

The normal work year for sworn employees in the police department is two thousand and eighty hours (2080) to be accounted for by each employee through hours on assigned shifts, and holidays. Nothing in this section shall be interpreted to be a guarantee of a minimum or maximum number of hours the employer may assign employees.

Section 14.03 Meal Breaks and Rest Periods

A paid fifteen-minute break is allowed within each four consecutive hours of work. An unpaid thirty-minute lunch period is provided when an employee works eight or more consecutive hours. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or lunch time by saving these breaks. Abuse of this break and rest period policy is subject to

disciplinary action. Each department head shall schedule rest periods so as not to interfere with work requirements.

Employees working in city buildings will normally take their break at the place provided for that purpose in each building. Employees working out-of-doors will normally take their break at the location of their work.

Employees whose duties involve traveling throughout the city may stop along the assigned route at a restaurant or other public accommodation for their fifteen-minute break. Exceptions must be approved by the supervisor or city manager.

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

Nursing mothers will be provided reasonable unpaid break time for nursing mothers to express milk for nursing her child for one (1) year after the child's birth. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from co-workers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private. Resolution #14-26 passed 11-20-2014.

Section 14.04 Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). Employees not reporting to work for reasons of personal safety will not normally have their pay reduced as a result of this absence. Employees will be allowed to use accrued vacation time or compensatory time, or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments.

In the event the city closes due to weather or other public emergency, see Article23.03 for Earned Sick and Safe Leave.

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

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the city manager.

Section 15.01 Compensation

Full-time employees of the city will be compensated according to schedules adopted by the city council. Expense reimbursement or travel expenses may be authorized in addition to regular pay.

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

Good employee morale shall be promoted by consideration of the rights and interests of employees consistent with the best interests of the public and the city government.

Section 15.02 Disclosure of Wages

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

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

The city cannot retaliate, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for disclosing their own wages. An employee's remedies under the Wage Disclosure Protection Law are to bring a civil action against the city and/or file a complaint with the Minnesota Department of Labor and Industry at (651) 284-5075 or (800) 342-5354.

See Appendix P Minnesota State Statute #13.43

See Appendix Q Minnesota State Statute #181.172

POLICY: **ARTICLE 16 - DIRECT DEPOSIT**

ADOPTED: 01-20-2005 Resolution #05-04
EFFECTIVE:
REVISED:

Section 16.01 Direct Deposit

As provided for in Minnesota law, all employees are required to participate in direct deposit. Employees are responsible for notifying the city treasurer of any change in status, including changes in account number, address, phone number, names of beneficiaries, marital status, etc.

Section 16.02 Improper Deduction and Overpayment Policy

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

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

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

Section 16.03 Time Reporting

Full-time, non-exempt employees are expected to work the number of hours per week as established for their position. In most cases, this will be 40 hours per workweek. They will be paid according to the time reported on their time sheets. To comply with the provisions of the federal and state Fair Labor Standards Acts, hours worked, and any leave time used by non-exempt employees are to be recorded daily and submitted to payroll on a bi-weekly basis.

Each time reporting form must include the signature of the employee and immediate supervisor. Reporting false information on a time sheet may be cause for immediate termination.

See Appendix R Resolution #05-04 Direct Deposit

POLICY: **ARTICLE 17 – OVERTIME/COMPENSATORY TIME/CALL BACK TIME**
ADOPTED: 01-20-2005
EFFECTIVE:
REVISED:

Section 17.01 Overtime / Compensatory Time/Call Back Time

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

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

Pursuant to federal and state wage and hour laws, authorized overtime work in excess of the forty-hour (40) workweek performed by persons other than the city manager and exempted employees, shall be compensated for at one and one-half times their regular rate of pay. Compensatory time off for peace officers shall be taken when approved by the Chief of Police.

A permanent employee given less than twenty-four (24) hour notice for a call back to duty at a time other than their normally scheduled work period shall be compensated at one and one-half times the employee's regular pay rate for hours worked outside the scheduled work period.

Public works employees shall be subject to a rotating "on-call" week status. The employee shall not be scheduled for work the Friday proceeding the weekend the employee is to be available for call back. The employee shall then work five (5) hours on Saturday and three (3) hours on Sunday. If employee is called back to work at any time during that weekend, the employee shall be compensated at one and one-half times the employee regular pay rate. Employees shall be compensated for "on-call" week status at $240.00 and must be available during that time for emergency call back.

Employees may accumulate up to a maximum of eighty (80) hours of compensatory time in lieu of payment. Compensatory time accrued over 80 hours will be paid at one and one-half time the regular rate of pay. Compensatory time may only be used with the specific permission of the city. Employees shall only be permitted to carry over, at the end of the calendar year, forty (40) hours of compensatory time. Any hours in excess of the forty (40) hours compensatory time shall be paid to the employee, at the employee's current rate of pay, at the end of the calendar year by the employer.

Section 17.02 Non-Exempt (Overtime-Eligible) Employees

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

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

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

Overtime earned will be paid at the rate of time-and-one-half on the next regularly scheduled payroll date.

However, the employee may indicate on his/her timesheet that the overtime earned is to be recorded as compensatory time in lieu of payment. Employees may request and use compensatory time off in the same manner as other leave requests.

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

The Finance Department will maintain compensatory time records within the accounting software. All compensatory time accrued will be paid when the employee leaves city employment at the hourly pay rate the employee is earning at that time.

Section 18.01 Exempt (Non-Overtime-Eligible) Employees

Exempt employees (city manager) are expected to work the hours necessary to meet the performance expectations outlined by city council under a contract agreement.

Generally, to meet these expectations, and for reasons of public accountability, an exempt employee will need to work 40 or more hours per week. Exempt employees do not receive extra pay for the hours worked over 40 in one workweek.

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

Section 18.02 Leave Policy for Exempt Employees

Exempt employees are required to work the number of hours necessary to fulfill their responsibilities including evening meetings and/or on-call hours. The normal hours of business for exempt staff are Monday through Thursday, 7:30 a.m. to 4:30 p.m. and Friday, 7:30 a.m. to 1:30 p.m., plus evening meetings as necessary.

Exempt employees are required to use paid leave when on personal business or away from the office for four hours or more, on a given day. Absences of less than four hours do not require use of paid leave as it is presumed that the staff member regularly puts in work hours above and beyond the normal 40-hour work week.

POLICY: **ARTICLE 19 – LONGEVITY PAY SCHEDULE**

ADOPTED: 12-20-2018 Resolution #18-52
EFFECTIVE: 01-01-2019
REVISED:

Section 19.01 Longevity Pay Schedule – Non-Union and Exempt Employees

1. Eligibility. Longevity shall be granted to permanent non-union full-time and part-time employees.

2. The longevity salary structure for all non-union employees shall be adopted and constitute the official plan for all positions in the municipal services.

3. The longevity structure may be amended by the city council at any time that it deems necessary in the interest of good personnel administration as recommended by the city manager.

4. The longevity steps so established shall represent the year in which the employee is granted a longevity step increase.

5. The longevity schedule shall become effective on January 1, 2019.

See Appendix S Longevity Pay Schedule

POLICY: ARTICLE 20 - PERFORMANCE REVIEWS

ADOPTED:
EFFECTIVE:
REVISED:

An objective performance review system will be established by the city manager and department supervisors for the purpose of periodically evaluating the performance of city employees.

The quality of an employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations and, where applicable, salary adjustments.

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

During the training/probationary period, informal performance meetings should occur frequently between the supervisor and the employee. Conducting these informal performance meetings provides both the supervisor and the employee the opportunity to discuss what is expected, what is going well and what needs improvement.

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

Section 21.01 Health, Dental, Life Insurance, LTD, STD and HSA

The city will contribute a monthly amount toward group health, dental, and life insurance benefits for each eligible employee and his/her dependents. Permanent, full-time employees shall be eligible for the group health insurance plan offered by the city. The city shall be responsible for the entire premium cost of the employee, and shall share the cost of family coverage with the employee, with the city's portion to be determined from time to time by the city council.

In accordance with federal health care reform laws and regulations, while avoiding penalties, the city will offer health insurance benefits to eligible employees and their dependents that work on average or are expected to work 30 or more hours per week or the equivalent of 130 hours or more per month. The amount to be contributed and the type of coverage will be determined annually by the city council.

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

Section 21.02 Retirement/PERA

The city participates in the Public Employees Retirement Association (PERA) to provide pension benefits for its eligible employees to help plan for a successful and secure retirement. Participation in PERA is mandatory for most employees, and contributions into PERA begin immediately.

The city and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each paycheck for Social Security and Medicare (the city matches the employee's Social Security and Medicare withholding for many employees). For information about PERA eligibility and contribution requirements, contact city treasurer.

CITY OF MILACA Minnesota

POLICY: ARTICLE 22 - HOLIDAYS

ADOPTED:
EFFECTIVE:
REVISED:

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

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January (Resolution #85-26)
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19 (Resolution #22-13)
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Post-Thanksgiving Day	Friday after Fourth Thursday in November
Christmas Eve	Three hours, only if December 24 falls on a regular work day
Christmas	December 25

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

When a holiday falls on a Sunday, the following Monday will be the "observed" holiday and when a holiday falls on a Saturday, the preceding Friday will be the "observed" holiday for city operations/facilities closed on holidays.

Full-time employees will receive pay for official holidays at their normal straight time pay rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Employees absent from work on the day following or the day preceding such a three (3) day holiday weekend without the express authorization of the city manager shall forfeit their rights to holiday pay for that holiday. Part-time employees will receive prorated holiday pay based on the number of hours normally scheduled. Any employee on a leave of absence without pay from the city is not eligible for holiday pay.

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

Employees who work a Monday through Friday work week who are required to be on duty or on call on any holiday as listed above and as qualified in paragraph 2, shall be paid time and one-half for the hours worked in addition to the holiday pay.

See Appendix T Resolution #85-26 Martin Luther King Holiday

See Appendix U Resolution #22-13 Juneteenth Holiday

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

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

Section 23.01 Eligibility

Earned Sick Leave and Safe Leave with pay shall be granted to full-time permanent employees at the rate of a total of eight (8) hours for each calendar month or major fraction thereof for a total of 96 hours a fiscal year. Part-time employees including temporary, seasonal, fire department and elected officials who work at least 80 hours a fiscal year will earn a total of 56 hours a fiscal year. Earned Sick Leave and Safe Leave is granted in units of not less than one (1) hour of a work day.

Section 23.02 Probationary Period

During the probationary period following an original appointment, an employee is not entitled to Earned Sick Leave and Safe Leave or vacation leave. After the end of the probationary period, an employee is entitled to Earned Sick Leave and Safe Leave and vacation leave accrued from the start of probationary employment.

Section 23.03 Usage

Sick leave is granted in units of not less than one (1) hour of a work day. Sick leave shall be used for reasonable absences for the following circumstances:

An employee's own:

1. Mental or physical illness, injury or other health condition
2. Need for medical diagnosis, care or treatment, of a mental or physical illness
3. Injury or health condition

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

Section 23.04 For Earned Sick Leave and Safe Leave Purposes, Family Member Includes an Employee's:

1. Spouse or registered domestic partner

2. Child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in local parentis
3. Sibling, step sibling or foster sibling
4. Biological, adoptive or foster parent, stepparent or a person who stood in local parentis when the employee was a minor child
5. Grandchild, foster grandchild or step grandchild
6. Grandparent or step grandparent
7. A child of a sibling of the employee
8. A sibling of the parent of the employee or
9. A child-in-law or sibling-in-law
10. Any of the above family members of a spouse or registered domestic partner
11. Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship
12. Up to one individual annually designated by the employee

Section 23.05 Advance Notice for use of Earned Sick Leave and Safe Leave.

If the need for Earned Sick Leave and Safe Leave is foreseeable, the city requires seven (7) days advance notice. However, if the need is unforeseeable, employees must provide notice of the need for Earned Sick Leave and Safe Leave time as soon as practicable. When an employee uses Earned Sick Leave and Safe Leave time for more than three (3) consecutive days, the city may require appropriate supporting documentation (such as medical documentation supporting medical leave, court records or related documentation to support safety leave). However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation may include a written statement from the employee indicating that the employee is using, or used, Earned Sick Leave and Safe Leave for a qualifying purpose.

The city will not require an employee to disclose details related to domestic abuse, sexual assault, or stalking or the details of the employee's or the employee's family member's medical condition. In accordance with state law, the city will not require an employee using Earned Sick Leave and Safe Leave to find a replacement worker to cover the hours the employee will be absent.

Section 23.06 Proof

To be eligible for Earned Sick Leave and Safe Leave with pay, an employee shall, (1) report as soon as possible to their department head the reason for the absence; (2) keep their department head informed of their condition; and (3) furnish a statement from a medical practitioner upon the request of the employer if the absence is more than three (3) working days.

Section 23.07 Accrual

Earned Sick Leave and Safe Leave shall accrue at the rate of a total of eight (8) hours per month until 1000 hours have been accumulated for full time employees. Accumulated Earned Sick Leave and Safe Leave shall not exceed 1000 hours. Hours accumulated in excess of 1000 shall be paid annually at fifty percent (50%) of the employee's regular rate of pay. Part-time employees shall accrue a total of fifty-six (56) hours per fiscal year. Part-time employees' hours accumulated in excess of 1000 shall be paid annually at fifty percent (50%) of the employee's regular rate of pay. Employees using earned vacation leave or Earned Sick Leave and Safe Leave shall be considered to be working for the purpose of accumulating additional Earned Sick Leave and Safe Leave.

Section 23.08 Misuse Prohibited

Employees claiming Earned Sick Leave and Safe Leave when physically fit, except as otherwise specifically authorized in Section 23.03, shall be subject to disciplinary action up to and including discharge.

Section 23.09 Termination of Employment

If an employee quits, retires, or leaves city employment in good standing, the employee shall be paid for accumulated Earned Sick Leave and Safe Leave at the following rate: After ten (10) years of full-time employment, employees will be paid back at twenty percent (20%) of their salary for all accumulated Earned Sick Leave and Safe Leave. After twenty (20) years of full-time employment, employee shall be paid back at fifty percent (50%) of their salary for all accumulated Earned Sick Leave and Safe Leave. Payment shall be calculated at the employee's current pay rate.

Section 23.10 Carry Over of Earned Sick Leave and Safe Leave

Employees are eligible for carry over accrued but unused Earned Sick Leave and Safe Leave time into the following year, but the total of Earned Sick Leave and Safe Leave carry over hours shall not exceed a total of eighty (80) hours for full-time employees and not exceed a total of fifty-six (56) hours for part-time employees.

Section 23.11 Retaliation Prohibited

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

Section 23.12 Benefits and Return to Work Protections

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

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

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

Any previous resolutions in regard to Earned Sick Leave and Safe Leave have been repealed.

CITY OF MILACA Minnesota

POLICY: ARTICLE 24 - VACATION LEAVE

ADOPTED:
EFFECTIVE:
REVISED:

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

Section 24.01 Vacation Leave Schedule

Vacation Leave Schedule

For the first year of employment, four (4) hours per month;
Commencing with the second year of employment, six (6) hours per month;
Commencing with the fourth year of employment, eight (8) hours per month;
Commencing with the eight year of employment, ten (10) hours per month;
Commencing with the twelfth year of employment, twelve (12) hours per month;
Commencing with the sixteenth year of employment, fourteen (14) hours per month;

Deputy Registrar Vacation Leave Schedule

LENGTH OF EMPLOYMENT	NORMAL SCHEDULED 3 DAYS A WEEK	NORMAL SCHEDULED 4 DAYS A WEEK
First year of Employment	2.5 hours per month	3.25 hours per month
2nd year of Employment	3.5 hours per month	4.75 hours per month
4th year of Employment	4.75 hours per month	6.5 hours per month
8th year of Employment	6.0 hours per month	8.0 hours per month
12th year of Employment	7.25 hours per month	9.5 hours per month
16th year of Employment	8.5 hours per month	11.25 hours per month

Section 24.02 Eligibility

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

All permanent part-time employees who work an average of 24 hours or more per week on a regular basis will accrue vacation leave on a prorated basis of hours worked.

Part-time employees who work less than 24 hours per week on a regular basis, temporary and seasonal employees will not earn or accrue vacation leave.

Section 24.03 Accrual Rate

For the purpose of determining an employee's vacation accrual rate, years of service will include all continuous time that the employee has worked at the city (including authorized unpaid leave). Employees who are rehired after terminating city employment will not receive credit for their prior service unless specifically negotiated at the time of hire. An employee may accrue vacation leave to a maximum of 176 hours.

Section 24.04 Earnings and Use

After six months of service, vacation leave may be used as it is earned, subject to approval by the employee's supervisor. Unless approved by the City Manager, vacation leave will not be earned during an unpaid leave of absence without pay, or time otherwise not worked or paid.

An employee will not earn any vacation leave for any pay period unless they are employed by the city on the last scheduled workday of the pay period. Further, vacation leave will stop accruing as of the effective date of termination. Requests for vacation must be approved by city manager prior to requested time off.

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

Section 24.05 Vacation Separation Payout

Full-time employees will be paid accrued, unused vacation, earned through the last date of active employment, subject to applicable caps as noted above, (and applicable taxes withheld) following termination of employment. The rate of pay will be the employee's base rate of pay at the employee's termination date.

In the event of the employee's death, earned, unused vacation and comp time will be paid to the employee's surviving spouse or designated beneficiary directly, (if there is no personal representative of the estate appointed) up to statutory limits.

Employees leaving the municipal service in good standing, after having given proper notice of termination of employment shall be compensated for vacation leave accrued and unpaid, computed to the date of separation and paid at the current rate of pay.

Section 24.06 Unpaid Leave

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

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

An employee on unpaid non-FMLA leave will be offered COBRA and any other legally required benefits continuation. The employee may continue to be covered by group medical, dental, and life insurance, under applicable state and federal law and as allowed by the terms of each plan but will be responsible for paying 100% of the premium costs.

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

Section 24.07 Benefit Accruals

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

Section 25.01 Funeral Leave

Employees will be permitted to use up to three (3) consecutive working days, with pay, as funeral leave upon the death of an immediate family member (employee's parent, brother, sister, spouse or child). Two (2) working days in the case of the death or funeral of the employee's mother-in-law, father -in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law. One (1) working day in the case of the death of a grandparent or grandchild. One-half (1/2) working day in the case of the death or funeral of a fellow employee of the city.

This paid leave will not be deducted from the employee's vacation or sick leave balance.

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

Section 25.02 Military Leave

State and federal laws provide protection and benefits to city employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of 15 workdays in any calendar year. City compensation is in addition to the military pay for these 15 days, as per MN Attorney General's Opinion.

The leave of absence is only in the event the employee returns to employment with the city as required upon being relieved from service or is prevented from returning by physical or mental disability or other cause not the fault of the employee or is required by the proper authority to continue in military or naval service beyond the fifteen-day paid leave of absence. Employees on extended unpaid military leave will receive fifteen days paid leave of absence in each calendar year, not to exceed five years. Where possible, notice is to be provided to the city at least ten working days in advance of the requested leave. A training notice, signed orders, or battle assembly schedule are examples of typical written notification to share with the city.

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

Employees returning from military service will be reemployed in the job they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other

rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

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

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

Section 25.03 Military Leave for Family Members

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

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

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

For reference, see Minn. Stat. § 181.948.

Section 25.04 Military Leave for Family Member Injured or Killed in Active Service

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

For reference, see Minn. Stat. § 181.947 & Minn. Stat. § 181.948

Section 25.05 Civil Air Patrol

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

Note: Minn. Stat. § 181.946 is a requirement for cities with more than 20 employees.

Section 25.06 Jury Duty

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

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

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

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

For reference, see Minn. Stat. § 593.48.

Section 25.07 Court Appearances

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

Section 25.08 Victim or Witness Leave

An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony to attend criminal proceedings related to the victim's case. Additionally, a victim of a violent crime, as well as the victim's spouse or immediate family member (immediate family member includes parent, spouse, child or sibling of the employee) may have reasonable time off from work to attend criminal proceedings related to the victim's case. An employee must give 48 hours advance notice to the city of their need to be absent unless it is impracticable, or an emergency prevents them from doing so. The city may request verification that supports the employee's reason for being absent from the workplace. [See Article 23 Earned Sick and Safe Leave for additional information on leave benefits available to employees and certain family members].

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

Section 25.09 Job Related Injury or Illness

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor).

If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify their supervisor of the action taken. In the case of a serious emergency, 911 should be called.

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

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

Pursuant to Minnesota Statues Section 176.011, Subdivision 9, the elected officials of the City of Milaca and those municipal officers appointed for regular term of office are hereby included for the coverage of the Minnesota Workers' Compensation Act.

Section 25.10 Pregnancy and Parenting Leave

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

Employees are required to use accrued leave (i.e., sick leave, vacation leave, etc.) during Parenting Leave If the employee has any FMLA eligibility remaining at the time this leave commences, this leave will also count as FMLA leave. The two leaves will run concurrently. The employee is entitled to return to work in the same position and at the same rate of pay the employee was receiving prior to commencement of the leave.

Group insurance coverage will remain available while the employee is on leave pursuant to the Pregnancy and Parenting Leave Act, but the employee will be responsible for the entire premium unless otherwise provided in this policy (i.e., where leave is also FMLA qualifying).

For employees on an FMLA absence as well, the employer contributions toward insurance benefits will continue during the FMLA leave absence.

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

An employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining a leave of absence as provided by this section or for asserting parental leave rights or remedies.

See M.S. Statute #181.940 and M.S. Statute #181.941

Section 25.11 Reasonable Work Time for Nursing Mothers

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

The city will provide a clean, private and secure room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

An employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining a leave of absence as provided by this section or for asserting parental leave rights or remedies.

Section 25.12 Reasonable Accommodations to an Employee for Health Conditions Relating to Pregnancy

The city will attempt to provide a female employee who requests reasonable accommodation with the following for her health conditions related to her pregnancy or childbirth without advice of a licensed health care provider or certified doula:

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

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

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

Section 25.13 Administrative Leave

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

Section 25.14 Adoptive Parents

Adoptive parents will be given the same opportunities for leave as biological parents (see provisions for Parenting Leave).

The leave must be for the purpose of arranging the child's placement or caring for the child after placement. Such leave must begin before or at the time of the child's placement in the adoptive home.

Section 25.15 School Conference Leave

Effective July 1, 2023, any employee may take unpaid leave for up to a total of sixteen hours during any 12-month period to attend school conferences or classroom activities related to the employee's child (under 18 or under 20 and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours. When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the city. Employees may choose to use vacation leave hours for this absence but are not required to do so.

Section 25.16 Bone Marrow/Organ Donation Leave

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

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

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

Section 25.17 Elections / Voting

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off with pay for purposes of serving as an election judge, provided the employee gives the city at least twenty days written notice, including a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve.

All employees eligible to vote at a State general election, at an election to fill a vacancy in the office of United States Senator or Representative, or in a Presidential primary, will be allowed time off with pay to vote on the election day. Employees wanting to take advantage of such leave are required to work with their supervisors to avoid coverage issues. Effective July 1, 2023, employees may be absent from work for the time necessary to vote to include voting during the period allowed for voting in person before election day.

Section 25.18 Delegates to Party Conventions

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

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

Section 25.19 Political Activity

Any city employee who shall become a candidate for any elective public office of the City of Milaca shall automatically be given a leave of absence without pay until they are no longer a candidate for office, and if elected, such employee shall resign upon taking office.

No employee of the city shall directly or indirectly, during their hours of employment, solicit or receive funds, or at any time use their authority or official influence to compel any city employee to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity.

This section shall not be construed to prevent any employee from becoming or continuing to be a member of a political club or organization or from attendance at a political meeting or from enjoying entire freedom from all interference in casting their vote for the candidate of their choice.

Employees shall comply with all state and federal laws governing the political activity of local government employees, including but not limited to, the Hatch Act and Minnesota Statutes 43.28.

Section 25.20 Regular Leave without Pay

The city manager may authorize leave without pay for up to thirty days.

Employee benefits will not be earned by an employee while on leave without pay. However, the city's contribution toward health, dental and life insurance may be continued, if approved by the city manager. For leaves over 30 days when the leave is for medical reasons and FMLA has been exhausted, employees may use short-term disability or long-term disability coverage.

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

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

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

Employees returning from a leave without pay for a reason other than a qualified Parenting Leave, or FMLA, will be guaranteed return to the original position.

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

See Appendix V Minnesota State Statute #192.261

See Appendix W Minnesota State Statute #181.948

See Appendix X Minnesota State Statute #181.947

See Appendix Y Minnesota State Statute #181.946

See Appendix Z Minnesota State Statute #593.48

See Appendix AA Minnesota State Statute #611A.036

See appendix BB Minnesota State Statute #176.011

See Appendix CC Minnesota State Statute #181.940

See Appendix DD Minnesota State Statute #191.941

Section 26.01 Eligibility

To qualify to take FMLA leave under this policy, an employee must meet all the following conditions:

1. Have worked for the city for 12 months (or 52 weeks) prior to the date the leave is to commence. The 12 months or 52 weeks need not have been consecutive; however, the city will not consider any service 7 years prior to the employee's most recent hire date.
2. Have worked at least 1,250 hours during the 12-month period prior to the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act ("FLSA") determine the number of hours worked by an employee. The 1250 hours include only on-the-clock hours worked and do not include leave, PTO, or vacation hours.

Section 26.02 Types of Leave Covered By FMLA

Leave will be granted to all eligible employees up to twelve (12) weeks during any calendar year for any of the following reasons:

1. The birth of a child, including prenatal care, or placement of a child with the employee for adoption or foster care. The entitlement in this case expires twelve (12) months after the birth or placement. There is no maximum age limit for adoption or foster care placement;
2. To care for a spouse, child, or parent who has a serious health condition. Caring for someone includes psychological as well as physical care. It also includes acquiring care and sharing care duties;
3. Due to a serious health condition that makes the employee unable to perform the essential functions of the position;
4. A covered military member's active duty or call to duty or to care for a covered military member (See Article 27 Military Caregiver and Qualified Exigency Leave)

Section 26.03 Definitions by FMLA Regulations

"Spouse" does not include domestic partners (domestic partner can be broadly defined as an unrelated and unmarried person who shares common living quarters with an employee and lives in a committed, intimate relationship that is not legally defined as marriage by the state in which the partners reside) or common-law spouses.

- **"Caring for"** a covered family member includes psychological as well as physical care. It also includes acquiring care and sharing care duties. An eligible **"child,"** with some exceptions, is under 18 years of age.
- An eligible **"parent"** includes a biological parent or a person who stood in the place of a parent.
- **Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves one of the following:
    - **Hospital Care**: Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
    - **Pregnancy**: Any period of incapacity due to pregnancy, prenatal medical care or childbirth;
    - **Absence Plus Treatment:** A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider.
    - **Chronic Conditions Requiring Treatments**: An incapacity from a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity;
    - **Permanent/Long-Term Conditions Requiring Supervision**
    - **Multiple Treatments:** Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.

Section 26.04 Length and Amount of Leave

The length of FMLA leave is not to exceed twelve (12) weeks in any twelve (12) month period. The leave is based on a fixed or calendar date basis.

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

Section 26.05 How Leave May Be Taken

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

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

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

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

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

During the family and medical leave, employees must use accrued sick leave, accrued vacation and compensatory time prior to taking an unpaid leave. When sick leave, accrued vacation and compensatory time have been exhausted, any remaining time will be unpaid. Unpaid hours will not count toward seniority.

Section 26.06 Procedure for Requesting Leave and Notice

All employees requesting FMLA leave must provide written or verbal notice of the need for the leave to city manager.

When the need for the leave is foreseeable, the employee must give verbal or written notice to his/her supervisor at least thirty (30) days prior to the date on which leave is to begin.

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

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

The city requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work. Employees on leave must keep their immediate supervisor informed of any change in their current address.

Section 26.07 Certification and Documentation Requirements

For leave due to an employee's serious health condition or that of an employee's family member, the city will require the completion of a Medical Certification form by the attending physician or practitioner. The form must be submitted by the employee to the city manager within fifteen (15) calendar days after leave is requested. If the form is not submitted in a timely fashion, the employee must provide a reasonable explanation for the delay. Failure to provide medical certification may result in a denial or delay of the leave.

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

The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the essential functions of the job. If

fitness for duty certification is required, the city may deny reinstatement until it is provided. The city manager may consult with a physical or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the ADA (Americans with Disabilities Act).

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

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

Section 26.08 Second and Third Medical Opinions

The city may require an employee obtain a second opinion from a provider which the city selects. If necessary to resolve a conflict between the original certification and the second opinion, the city may require the opinion of a third doctor. This third opinion will be considered final. An employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion. If requested, the city will pay for the cost of the second opinion and will select a health care provider not regularly associated with the city.

Section 26.09 Annual Medical Certification and Recertification

Where the employee's need for leave due to the employee's own serious health condition lasts beyond a single leave year, the city will require employees to provide a new medical certification in each subsequent leave year.

Section 26.10 Reinstatement

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

Section 26.11 Group Health Insurance and Other Benefits, Concurrent Leave and Substitution of Paid Leave

An employee granted leave under this policy will continue to be covered under the city's group health and dental insurance plan under the same conditions and at the same level of city contribution as would have been provided had the employee been continuously employed during the leave period. The employee will be required to continue payment of the employee portion of group insurance coverage while on leave. Arrangements for payment of the employee's portion of premiums must be made by the employee with the city.

If there are changes in the city's contribution levels while the employee is on leave, those changes will take place as if the employee were still on the job.

Rights to additional continued benefits will depend on whether leave is paid or unpaid.

Any paid disability leave benefits (Short Term Disability or Long-Term Disability), sick leave, Paid Time Off (PTO) or compensatory time off available to employees for a covered reason (an employee's serious health condition or a covered family member's serious health condition, including worker's compensation leave and Minnesota State Parenting Leave) will run concurrently with FMLA.

A City's FMLA policy should be clear that Minnesota Parenting Leave and all forms of paid time off (sick leave, disability leave, workers' comp leave, vacation, PTO and compensatory time off) run concurrently with FMLA. By way of example, a Minnesota Parenting Leave policy -- which permits employees who have worked for the company for at least twelve (12) months and have worked at least 1,040 hours – should clearly state that Minnesota Parental leave will run concurrently with any other applicable leave, such as FMLA, STD, paid parental leave, sick leave, or accrued vacation and that paid leave cannot be utilized to extend FMLA or parental leave beyond twelve weeks.

Section 26.12 Records Retention

Records on FMLA leave will be kept along with normal payroll records except that any medical record will be maintained separately as a confidential medical record in accordance with the law.

Section 26.13 Effect on Pension

FMLA leave counts as continued service for purposes of retirement or pension plans.

Section 26.14 Training

Employees who have missed training sessions while on FMLA leave will be given a reasonable opportunity to make them up.

Section 26.15 Return from FMLA Leave

Employees will return to their same position or an equivalent position upon return from FMLA leave. The employee's health insurance coverage will be reinstated at the same level without requiring a physical exam, qualifying period or exclusion of pre-existing condition.

Employees are obligated to return to work on the first work day following the approved leave.

Section 26.16 Failure to Return to Work After FMLA

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

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

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

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

Section 26.17 Activities Prohibited During FMLA

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

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

Section 26.18 Seniority

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

Section 26.19 Unpaid Medical Leave of Absence

If an employee is ineligible for FMLA leave or has exhausted available FMLA leave benefits, it is the policy of the City to consider an employee's request for a medical or personal leave of absence. The amount of medical leave available to each employee will be determined on a case-by-case basis depending on the position held, staffing requirements, the reasons for the leave, and the anticipated return-to-work date. Employees who take unpaid medical leave are not guaranteed to return to the same position held prior to taking leave.

Employees seeking a medical leave of absence will be required to present medical documentation to support the need for the leave, on-going documentation to support the need for continued leave, and documentation to support a return to work.

During Unpaid Medical Leave, employees will be expected to keep in regular contact with city manager. When you anticipate your return to work, please notify city manager of your expected return date at least one week before the end of your leave.

Employees on an Unpaid Medical Leave of Absence may be subject to COBRA notice and continuation benefits and will be solely responsible for payment of the entire COBRA.

Failure to keep in touch with management during your leave, failure to advise management of your availability to return to work, or failure to return to work following leave will be considered a voluntary resignation of your employment.

Section 26.20 Other Leaves of Absence

Other leaves of absence without pay may be granted by the city manager where the best interests of the city will not be harmed. Such leaves shall not exceed periods of ninety (90) calendar days. Vacation and sick leave benefits shall not accrue during periods of leaves of absence.

Section 26.21 Light Duty/Modified Duty Assignment

This policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are medically unable to perform their regular work duties. Light duty is evaluated by the city manager on a case-by-case basis. This policy does not guarantee assignment to light duty.

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

When an employee is unable to perform the essential requirements of their job due to a temporary disability, they will notify the supervisor in writing as to the nature and extent of the disability and the reason why they are unable to perform the essential functions, duties, and requirements of the position. This notice must be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability.

The notice must include the expected time frame regarding return to work with no restrictions, meeting all essential requirements and functions of the city's job description along with a written request for light duty. Upon receipt of the written request, the supervisor is to forward a copy of the report to the city manager. The city may require a medical exam conducted by a physician selected by the city to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the city manager whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis.

If the city offers a light duty assignment to an employee who is out on workers' compensation leave, the employee may be subject to penalties if he/she refuses such work. The city will not, however, require an employee who is otherwise qualified for protection under the Family and Medical Leave Act to accept a light duty assignment.

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

Section 27.01 Qualified Exigency

Eligible employees (described in Article 26) whose spouse, son, daughter, or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.

The qualifying exigency must be one of the following: (1) short-notice deployment; (2) military events and activities; (3) childcare and school activities; (3) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) parental care; or (9) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Section 27.02 Military Caregiver Leave

An employee eligible for FMLA leave (See Article 26) who is the spouse, son, daughter, parent, or next of kin of a covered servicemember may take up to 26 weeks in a single 12-month period to care for that servicemember.

The family member must be a current member of the Armed Forces (including a member of the National Guard or Reserves), who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, or otherwise is on outpatient status or on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, or members on the permanent disability retired list.

Section 27.03 Definitions

- A **"son or daughter of a covered servicemember**" means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- A "**parent of a covered servicemember**" means a covered servicemember's biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents "in law."
- The "**next of kin of a covered servicemember**" is the nearest blood relative, other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority:

blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

- **"Covered active duty"** means:
    - "Covered active duty" for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.
    - "Covered active duty" for members of the reserve components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of Title 10 of the United States Code.
- **"Covered servicemember"** means:
    - An Armed Forces member (including the National Guard or Reserves) undergoing medical treatment, recuperation, or therapy or otherwise in outpatient status or on the temporary disability retired list, for a serious injury or illness"; or
    - A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- **"Serious injury or illness"** means:
    - In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
    - In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicemember, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.

Section 27.04 Amount of Leave – Qualified Exigency

An eligible employee can take up to 12 weeks of leave for a qualified exigency.

Section 27.05 Amount of Leave – Military Caregiver

An eligible employee taking military caregiver leave is entitled to 26 workweeks of leave during a "single 12-month period." The "single 12-month period" begins on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date.

Leave taken for any FMLA reason counts towards the 26-week entitlement. If an employee does not take all 26 workweeks of leave to care for a covered servicemember during this "single 12-month period," the remaining part of the 26 workweeks of leave entitlement to care for the covered servicemember is forfeited. 29 C.F.R. § 825.127(e)(1) (2017).

Section 27.06 Certification of Qualifying Exigency for Military Family Leave

The city will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

Section 27.07 Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

The city will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Servicemember.

All other provisions of the FMLA policy, including Use of Paid Leave, Employee Status and Benefits During Leave, Procedure for Requesting Leave, and Benefits During Leave and Reinstatement, are outlined above in the FMLA policy.

POLICY: **ARTICLE 28 - DIVERSITY, EQUITY AND INCLUSION**

ADOPTED:

EFFECTIVE: RESERVED

REVISED:

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CITY OF MILACA Minnesota

POLICY: ARTICLE 29 - SEXUAL HARASSMENT PREVENTION

ADOPTED:
EFFECTIVE:
REVISED:

Section 29.01 General

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

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

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

Section 29.02 Applicability

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

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

Section 29.03 Definitions

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363A.03, subdivision 43, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

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

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

1. Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
2. Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
3. Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

Section 29.04 Expectations

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

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

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

1. A supervisor
2. Your supervisor's supervisor
2. City manager
3. Mayor or city councilmember
4. City Attorney

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing

so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and/or take other reasonable action, and as soon as feasible, a supervisor.

1. Communicate to the harasser the conduct is unwelcome. Professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions, and request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

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

3. To reiterate, it's important you notify a supervisor, the city manager, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the city manager. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the city manager, the mayor or the city attorney.

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

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

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

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

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

The city is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy.

The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

Section 29.05 Special Reporting Requirements

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

If the city manager is the alleged harasser, a report will be made to the city attorney who will confer with the mayor and city council regarding appropriate investigation and action.

If a councilmember is the alleged harasser, the report will be made to the city manager and referred to the city attorney who will undertake the necessary investigation. The city attorney will report his/her findings to the city council, which will take the action it deems appropriate.

Pending completion of the investigation, the city manager may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens. The city will take reasonable and timely action, depending on the circumstances of the situation.

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

Section 29.06 Retaliation

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

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

While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to

less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

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

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

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

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

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.

See Appendix N Minnesota State Statute #363A.03 Subd. 43

See Appendix EE Minnesota State Statute #363A.28

CITY OF MILACA Minnesota

POLICY: ARTICLE 30 - RESPECTFUL WORKPLACE POLICY

ADOPTED:
EFFECTIVE:
REVISED:

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

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

Section 30.01 Applicability

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

Section 30.02 Abusive Customer Behavior

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

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

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

Section 30.03 Types of Disrespectful Behavior

Disrespectful behavior may or may not be intentional. Unintentionally disrespectful behavior may still violate this policy.

It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, considering the sensibilities of employees and the possibility of public reaction.

Although the standard for how employees treat each other and the general public will be the same throughout the city, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee should request clarification from their supervisor, human resources, and/or the city administrator. Examples of disrespectful behavior include but are not limited to:

1. Exhibiting aggressive behaviors including shouting, abusive language, threats of violence, the use of obscenities, or other non-verbal expressions of aggression (i.e. hitting a wall or other thing, throwing things, etc.).
2. The use of physical force, harassment, bullying or intimidation.
3. Behavior that a reasonable person would find to be demeaning, humiliating, bullying, or offensive.
4. Viewing offensive videos or playing loud sexually graphic, violently misogynistic, racist, etc. Videos, music and/or media in the workplace.
5. Inappropriate remarks about or conduct related to a person's legally protected characteristic such as race, (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists), color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, gender expression, familial status, or status with regard to public assistance. • Unwelcome touching or comments about a person's hair, body, clothing, or personal effects.
6. Repeatedly misgendering a person, including using gendered personal references that do not align with another person's identity.
7. Repeatedly or deliberately mispronouncing a person's name, including use of an unwelcome nickname, or shortening a name without permission.
8. Repeatedly or deliberately using a name other than a person's chosen name, except as legally required or for business necessity.
9. Microaggressions, which may have the appearance of being harmless. Microaggressions include comments, behavior, or other interactions that intentionally or unintentionally communicate hostility or bias toward a person who might identify as being a member of a marginalized group or nonmainstream community. Comments, behavior, or other interactions are often rooted in a bias towards a certain group.
10. Deliberately destroying, damaging, or obstructing someone's work performance, work product, tools, or materials.
11. Use of this policy and procedure to make knowingly false complaint(s).

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

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

hostile work environment must meet certain legal criteria according to the EEOC. An environment can become hostile when:

a. Unwelcome conduct, or harassment, is based on protect class status such as race, sex, pregnancy, religion, national origin, age, etc.
b. Harassment is continued and long lasting.
c. In limited but severe circumstances, a single incident of harassment can result in a hostile work environment.
d. Conduct is severe or pervasive enough that the environment becomes intimidating, offensive or abusive.

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

1. Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
2. Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
3. Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.
4. Relationships with subordinates or superiors or other power differentials are likely to lead to difficulties and have the potential to cause great personal and professional risk. Amorous, sexual, or intimate relationships between supervisors and their subordinates often adversely affect decisions, distort judgment, and undermine workplace morale even for those not engaged in the relationships.

Names and Pronouns:

Every employee will be addressed by a name, pronouns (e.g., she, her, hers, he, him, his, they, them, theirs) titles (e.g., Mx., Mrs., Mr., Ms.) and other terms indicating a person's gender identity. A court-ordered name or gender change is not required.

Section 30.04 Employee Response to Disrespectful Workplace Behavior

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

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

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

Step 1(a). If you feel comfortable doing so, professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions.

Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

Step 1(b). If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor, your supervisor's supervisor, or the city manager. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter.

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

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

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

Section 30.05 Supervisor's Response to Allegations of Disrespectful Workplace Behavior

Employees who have a complaint of disrespectful workplace behavior will be taken seriously.

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

Step 1(a). If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of his/her actions and requiring the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b). Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly.

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

Step 2. If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. Formal investigations will be prompt, impartial, and thorough.

The person being interviewed may have someone of his/her own choosing present during the interview. Typically, the investigator will obtain the following description of the incident, including date, time and place:

1. Corroborating evidence.
2. A list of witnesses.
3. Identification of the offender.

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

Step 3. The supervisor must notify the city manager about the allegations (assuming the allegations do not involve the city manager). For more information about what to do when allegations involve the city manager, the mayor, or a councilmember, see "Special Reporting Requirements" below.

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

Step 5. After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.

Step 6. The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable and to the extent permitted by the Minnesota Government Data Practices Act.

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

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

Section 30.06 Special Reporting Requirements

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city manager who will determine how to proceed in addressing the complaint as well as appropriate discipline.

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

If a councilmember is perceived to be the cause of a disrespectful workplace behavior incident involving city personnel, the report will be made to the city manager and referred to the city attorney.

In cases such as these, it is common for the city council to authorize an investigation by the city attorney. The city attorney will report his/her findings to the city council. The city will take reasonable and timely action, depending on the circumstances of the situation.

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

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

Section 30.07 Confidentiality

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files.

If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s).

Section 30.08 Retaliation

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

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

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities.

Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

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

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

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

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.

See Appendix EE Minnesota State Statute #363A.28

CITY OF MILACA Minnesota

POLICY: ARTICLE 31- POSSESSION AND USE OF DANGEROUS WEAPONS

ADOPTED:
EFFECTIVE:
REVISED:

Possession or use of a dangerous weapon (see Article 9 for definitions) is in accordance with M.S. §624.711.

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

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

See Appendix FF Minnesota State Statute #624.711

See Appendix F Ordinance #486 Firearms

Section 32.01 Resignations

Employees wishing to leave the city service in good standing must provide a written resignation notice to their supervisor, at least fourteen (14) calendar days before leaving. Failure to comply with this procedure may be considered cause for denying future employment by the municipality and denial of terminal leave benefits.

Exempt employees must give thirty calendar days' notice. The written resignation must state the effective date of the employee's resignation.

Unauthorized absences from work for a period of three (3) consecutive workdays may be considered as resignation without proper notice. Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the city.

Section 32.02 Severance Pay

Employees who leave the employment of the city in good standing by retirement or resignation will receive pay for 100 percent of unused accrued vacation (annual leave) and comp time accrued. Employees shall be paid for accumulated sick leave at the following rate: after ten (10) years of full-time employment, employees will be paid back at twenty (20) percent of their salary for all accumulated sick leave. After twenty (20) years of full-time employment, employee shall be paid back at fifty (50) percent of their salary for all accumulated sick leave. Payment shall be calculated at the employee's current pay rate. Exempt employees will refer to contract provision on Severance Pay.

CITY OF MILACA Minnesota

POLICY: ARTICLE 33 - DISCIPLINE

ADOPTED:
EFFECTIVE:
REVISED:

Section 33.01 General Policy

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

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

Section 33.02 No Contract Language Established

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

Every disciplinary action shall be for just cause, and the employee may demand a hearing or use the grievance procedure of Article 34 with respect to any disciplinary action which the employee believes is either unjust or disproportionate to the offense committed. Just cause shall include but not be limited to evidence of any of the following:

A. Incompetence or ineffective performance of duties.
B. Involvement in the commission of any gross misdemeanor, or in the commission of any felony offense.
C. Insubordination.
D. Violation of any lawful or official rule, regulation or order, or failure to obey any lawful direction made and given by a superior.
E. Intoxication on duty or the consumption of alcoholic beverages on duty.
F. Physical or mental defect which, in the judgment of the employer, incapacitates the employee from the proper performance of their duties. (An examination by a licensed physician may be required and imposed by the employer.)
G. Wanton use of offensive conduct or language toward the public, municipal officers, superiors or fellow employees.
H. Carelessness and negligence in the handling or control of municipal property.
I. Inducing or attempting to induce an officer or employee of the municipality to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or order.

J. Soliciting or accepting any gift, gratuity, loan, reward, discount, valuable favor, or any such thing of value which is sought or offered on a basis reasonably considered to be related to city employment and not generally available to members of the general public.
K. Deliberately filing or making a false report/or official statement.
L. Proven dishonesty in the performance of duties.
M. Violations of the provisions of this these policies.
N. Holding any other public office or employment which is incompatible with city employment responsibilities.
0. Failure to report any interest arising from any relationship which may create a substantial conflict of interest with respect to official duties for the City of Milaca.
P. Sworn peace officers shall also be governed by the policy and procedure manual of the Milaca Police Department.
Q. Theft or unauthorized personal use of city property.
R. Violation of the city's sexual harassment policy, attached to this document as an addendum.

Section 33.03 Process

The city may elect to use progressive discipline, a system of escalating responses intended to correct the negative behavior rather than to punish the employee.

There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any city employee has a contractual right or guarantee (also known as a property right) to the job they perform.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee. The following are descriptions of the types of disciplinary actions:

A. Oral reprimand.

B. Written reprimand. A written reprimand shall state the employee is being warned for misconduct; describe the misconduct; describe past actions taken by the supervisor to correct the problem; urge prompt correction or improvement by the employee; include time tables and goals for improvement when appropriate; and outline future penalties should the problem continue. The employee shall be given a copy of the reprimand and sign the original acknowledging that he has received the reprimand. The signature of the employee does not mean that the employee agrees with the reprimand.

C. Suspension without pay. Prior to the suspension or as soon thereafter as possible the employee shall be notified in writing of the reason for the suspension and its length. Upon the employee's return to work, the employee shall be given a written statement outlining further disciplinary actions should the misconduct continue. An employee may be suspended pending investigation of an allegation. A copy of each written statement shall be placed in the employee's personnel file, but if the suspension is for investigation and the allegation proves false, the statement shall be removed and the employee shall receive any compensation to which the employee would have been entitled had the suspension not taken place.

D. Dismissal. The City Manager may dismiss any employee after the employee is given written notice at least five working days before the effective date of the dismissal. The notice shall contain the reasons for the dismissal; the employee's rights under these rules and the veterans' preference law if the employee is a veteran; and a statement indicating that the employee may respond to the charges both orally and in writing and that the employee may appear personally before the City Manager. The decision of the City Manager in such cases will be final.

In the case of suspension, dismissal, or demotion, the employee shall be granted a hearing before the City Manager, unless it was the City Manager that leveled the discipline, if the employee submits a written request for such hearing to the City Manager within five working days of notification of the action taken. The employee and city shall retain the right to have respective legal counsel present at the hearing. The hearing shall be held within ten working days from the date the request filed unless the City and the employee agree on an earlier or later date. If the disciplinary action involves the removal of a veteran, the hearing shall be held in accordance with Minnesota Statutes, Section 197.46. In the event it was the City Manager who leveled the discipline, a grievance filed herein, shall automatically be referred to the City Council for hearing as outlined below.

See Appendix GG Minnesota State Statute #197.46

CITY OF MILACA Minnesota

POLICY: ARTICLE 34 - GRIEVANCE PROCEDURE

ADOPTED:
EFFECTIVE:
REVISED:

Section 34.01 Definitions

A. **Grievance** means a dispute or disagreement as to the interpretation or application of the specific terms, conditions, and application of this policy.
B. **Representative** means the employee may be represented during any step of the procedure by any person or agent designated by such part to act on behalf of the employee.
C. **City designee** means a person or agent appointed by the mayor to represent the employer and to act in the employer's behalf.
D. **Days** means reference to days regarding time periods in this procedure shall refer to the employees scheduled working days.
E. **Extension** means time limits specified in this procedure may be extended by mutual agreement.
    a. Days reference to days regarding time periods in this procedure shall refer to the employee's scheduled working days.
F. **Computation of Time** means computing any period of time prescribed or allowed by procedures herein, the date of the act, event, or default for which the designated period of time begins to
    a. run shall be included. The last day of the period so computed shall be counted, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
G. **Filing and postmark** means the filing or service of any notice or document herein shall be timely if it bears a postmark of the United States mail within the time period.
H. **Waiver** means if a grievance is not presented within the time limits set forth it shall be considered "waived." If a grievance or an appeal thereof within the specified time limits, the aggrieved employee and/or their representative may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the employer and the grieved employee and/or their
    a. representative.
I. **Denial of grievance** means if the employer does not answer a grievance or an appeal thereof within the specified time limits, the aggrieved employee and/or their representative may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the employer and the aggrieved employee and/or their representative.

Section 34.02 Adjustment of Grievance

An employee claiming a grievance shall, within fourteen (14) calendar days after such alleged violation has occurred, present such grievance in writing to the city manager and/or the city manager's appointed representative, and shall discuss with the city manager the events giving rise to the grievance within fourteen (14) days of the date of filing the grievance. The city manager shall give the employer's answer in writing within seven (7) days following the meeting with the city manager and the grieved employee

and/or their respective representatives. In the event it was the city manager who leveled the discipline, a grievance filed herein, shall automatically be referred to the city council for hearing as outlined below.

Section 34.03 Appeal

In the event that the employee and the city manager are unable to resolve any grievance, the grievance may be submitted to the city council.

1. Request: To submit a grievance to the city council, written notice signed by the aggrieved party must be filed in the office of the city manager within ten (10) days following the decision of the city manager.

2. Prior procedure is required: No grievance shall be considered by the city council which has not been first duly processed in accordance with the grievance procedure and appeal provisions.

3. Process: Upon the proper submission of a grievance under the terms of this procedure, the city council, within thirty (30) days after the request, shall hear and decide the grievance.

Section 34.04 Waiver

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

The following actions are not grievable:

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

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

B. Denial of Grievance: If the employer does not answer a grievance or an appeal thereof within the specified time limits, the aggrieved employee and/or their representative may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the employer and the aggrieved employee and/or their representative.

CITY OF MILACA Minnesota

POLICY: ARTICLE 35 - EMPLOYEE EDUCATION & TRAINING

ADOPTED:
EFFECTIVE:
REVISED:

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

Section 35.01 Policy

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

Section 35.02 Job-Related Training & Conferences

The subject matter of the training session or conference is directly job-related and relevant to the performance of the employee's work responsibilities. Responsibilities outlined in the job description, annual work program requirements and training goals and objectives developed for the employee will be considered in determining if the request is job-related.

CLE or similar courses taken by an employee in order to maintain licensing or other professional accreditation will not be eligible for payment under this policy unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

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

Section 35.03 Job-Related Meetings

Attendance at professional meetings will require the approval of the city manager. Advance supervisor approval is required to ensure adequate department coverage.

Section 35.04 Request for Participation in Training & Conferences

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

Requests totaling more than $600.00 must be approved by the employee's supervisor and the city manager. Documentation approving conference or training attendance will be provided to the employee with a copy placed in the employee's personnel file.

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

Section 35.05 Out of State Travel

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

See State of MN Out-of-State Travel Policies – Appendix HH.

Section 35.06 Compensation for Travel & Training Time

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

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

Section 35.07 Memberships and Dues

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

Section 35.08 Travel & Meal Allowance

Travel and travel plan by all city employees shall be approved by the city manager prior to travel. The city manager shall be responsible for approving all claims for travel expense reimbursement. Such reimbursement shall be within the approved budget for that department, or require separate city council approval. Approved at 01-17-08 council meeting.

If employees are required to travel outside of the area in performance of their duties as a city employee, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred. In no case will city funds be used to pay for, or reimburse, for events sponsored by or affiliated with political parties.

The city will not reimburse employees for meals connected with training or meetings within city limits, unless the training or meeting is held as a breakfast, lunch or dinner meeting. The city will also not reimburse employees for the costs for travel of family members.

Employees who find it necessary to use their private automobiles for city travel and who do not receive a car allowance will be reimbursed at the prevailing mileage rate as established by the City Council, not to exceed the allowable IRS rate. (See Appendix II Resolution #18-48 IRS Standard Mileage Rate).

Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. Meal expenses of $45.00 per day will be allowed.

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

See Appendix HH Out of State Travel Policies

See Appendix II Resolution #18-48 IRS Standard Mileage Rate

See Appendix JJ Travel Expense Claim Form 01-2025

CITY OF MILACA Minnesota

POLICY: ARTICLE 36 - OUTSIDE EMPLOYMENT

ADOPTED:
EFFECTIVE:
REVISED:

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

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

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

1. Outside employment must not interfere with a full-time employee's availability during the city's regular hours of operation or with a part-time employee's regular work schedule.
2. Outside employment must not interfere with the employee's ability to fulfill the essential requirements of his/her position.
3. The employee must not use city equipment, resources or staff in the course of the outside employment.
4. The employee must not violate any city personnel policies as a result of outside employment.
5. The employee must not receive compensation from another individual or employer for services performed during hours for which he/she is also being compensated by the city. Work performed for others while on approved vacation or compensatory time is not a violation of policy unless that work creates the appearance of a conflict of interest.
6. No employee will work for another employer, or for his/her own business, while using paid sick leave from the city for those same hours.
7. Departments may establish more specific policies as appropriate, subject to the approval of the city manager.

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

CITY OF MILACA Minnesota

POLICY: ARTICLE 37 - DRUG FREE WORKPLACE

ADOPTED:
EFFECTIVE:
REVISED:

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

A. Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the city's intent and obligation to provide a drug-free, safe and secure work environment.

B. The unlawful manufacture, distribution, possession, or use of drugs on city property or while conducting city business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

C. The city recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate.

D. Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting city business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

See Article 11 DOT Drug and Alcohol Testing for Commercial Drivers

See Article 12 Non-DOT Drug and Alcohol Testing for Non-Commercial Drivers

CITY OF MILACA Minnesota

POLICY: ARTICLE 38 - CITY DRIVING POLICY

ADOPTED:
EFFECTIVE:
REVISED:

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

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

CITY OF MILACA Minnesota

POLICY: ARTICLE 39 – CITY ISSUED CELLULAR PHONE USE

ADOPTED: 07-19-12
EFFECTIVE:
REVISED:

This policy is intended to define acceptable and unacceptable uses of city issued cellular telephones. Its application is to ensure cellular phone usage is consistent with the best interests of the city without unnecessary restriction of employees in the conduct of their duties.

This policy will be implemented to prevent the improper use or abuse of cellular phones and to ensure city employees exercise the highest standards of propriety in their use.

Section 39.01 General Policy

Any Milaca city employee is prohibited from using a cell phone or similar device while operating a city-owned vehicle, or a personal vehicle that is being used on city business, whether the device is being used for personal or city business. This prohibition includes receiving or placing calls, text messaging, surfing the Internet, receiving or responding to e-mail, checking for phone messages, or any other city or personally related activities not named here. This prohibition does not include the following:

1. The use of a "hands-free" cell phone or similar device for receiving (not sending) audible messages, such as receiving a telephone call while driving;

2. The use of a Global Positioning Device for the purpose of navigating to or from a destination while driving;

3. The use of a cell phone or similar device after the vehicle has been brought to a full and complete stop at a safe distance from moving traffic;

4. The use of a cell phone or similar device for necessary coordinated activities by emergency vehicle operators;

5. The use of a cell phone or similar device by a city employee who is a passenger in a city-owned vehicle, or a personal vehicle that is being used on city business.

Cellular telephones are intended for the use of city employees in the conduct of their work for the city.

Supervisors are responsible for the cellular telephones assigned to their employees and will exercise discretion in their use. Nothing in this policy will limit supervisor discretion to allow reasonable and prudent personal use of such telephones or equipment provided:

- Its use in no way limits the conduct of work of the employee or other employees.

- No personal profit is gained, or outside employment is served.
- All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving and who are issued a cellphone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times.
  Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area. **Hands-free equipment will be provided with city-issued phones to facilitate the provisions of this policy.**
- Reading/sending text messages, making or receiving phone calls, emailing, video calling, scrolling/typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.
    - In accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard or prevent a crime from being committed. There is also a state law exception for authorized emergency vehicles while in the performance of official duties.
- Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions. See Article 38 “City Driving Policy” for more information on reporting driver’s license restrictions”.

Therefore, the best practice is to limit usage of personal cell phones for city business to that which is truly necessary or be prepared to produce your cell phone and the associated records if needed.

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

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

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

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

Section 39.02 Procedures

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

Section 39.03 Responsibility

The city manager, or designee, will have primary responsibility for implementation and coordination of this policy. All supervisors will be responsible for enforcement within their departments.

Section 39.04 Public Works Personal Cell Phone Reimbursement

Reimbursement shall be $25 per month paid quarterly.

See Appendix KK Mobile Phone Restrictions for Commercial Drivers

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

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

Section 40.01 Reporting Accidents and Illnesses

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

Section 40.02 Safety Data Sheets

To comply with OSHA's Hazard Communication Standard 1910.1200, an employer must have, readily available, a Safety Data Sheet (SDS) for each product used in the workplace, and must provide their employees access to those SDSs. Damarco Solutions' SDS Management system provides employers with a user-friendly, cost-effective web-based solution, regardless of the number of employees, locations or SDSs.

SDS Access offers two options for employers to meet the requirements of OSHA's Hazard Communication Standard. Both options allow unlimited access to view and print SDS 24 hours/day, 7 days per week from a simple, web-based system.

Employees have access to Safety Data Sheet (SDS) information 24/7 by going to www.sdsaccessonline.com.

Username: gkirkeby@milacacity.com

Password (as of Feb. 2024): Contact Gary for Password

Employees should become familiar with this website so should an emergency arise that information needs to be obtained on a product used and the precautions and ways to address first aid, they will be able to access this information by going to this website. A printout sheet should be by all computer stations and any other bulletin boards in the work place.

Section 40.03 Safety Equipment/Gear

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

SAFETY BOOT POLICY

PUBLIC WORKS DEPARTMENT

Public Works full-time employees shall be equipped with OSHA mandated ANSI (American National Safety Institute) approved steel-toed safety boots. The employer shall reimburse each employee not to exceed $200.00 per pair of boots, per year, upon receipt from employee demonstrating employee procurement of the boots.

Documentation that boot purchases meet ANSI standards must be furnished with said reimbursement request. All requests for reimbursement must be approved by submitting a purchase order request to the department head prior to purchase.

Safety boot purchases within six months prior to leaving city employment would require a 50% reimbursement from the employee. The deduction would be taken from the employee's final paycheck.

Section 40.04 Unsafe Behavior

Supervisors are authorized to send an employee home immediately when the employee's behavior violates the city's personnel policies, department policies, or creates a potential health or safety issue for the employee or others.

Section 40.05 Access to Gender-Segregated Activities and Areas

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

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

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

See Appendix LL Safety Data Sheet Information

See Appendix MM Safety Boot Policy Signature Page

CITY OF MILACA Minnesota

POLICY: ARTICLE 41 - USE OF BODY-WORN CAMERAS (BWC)

ADOPTED: 06-16-2021
EFFECTIVE:
REVISED:

Section 41.01 Purpose

The primary purpose of using body-worn cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Compliance with these guidelines is mandatory. Officers are excused from recording requirements, however, when they must prioritize other primary duties or safety concerns, especially in circumstances that are tense, uncertain, and rapidly evolving.

Policy
It is the policy of this department to authorize and require the use of department issued BWCs as set forth below, and to administer BWC data as provided by law.

Scope
This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. Unless otherwise prohibited by law, the chief or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or by providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

Section 41.02 Definitions

The following phrases and words have special meanings as used in this policy:

A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

B. **Records Retention Schedule** refers, depending on context, to the General Records Retention Schedule for Minnesota Cities.

C. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.

D. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

E. **General citizen contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

F. **Adversarial** refers to a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

G. **Unintentionally recorded footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

H. **Official duties,** for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

Section 41.03 Use and Documentation

A. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.

B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devises are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.

C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.

D. Officers must document BWC use and non-use as follows:

1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or *[CAD record/other documentation of the event].*

2. Whenever an officer fails to record an activity that is required to be recorded under this policy, or fails to record for the entire duration of the activity, the officer must document the circumstances and reasons for not recording in an incident report or *[CAD record/other documentation of the event]*. Supervisors shall review these reports and initiate any corrective action deemed necessary.

E. The department will maintain the following records and documents relating to BWC use, which are classified as public data:

1. The total number of BWCs owned or maintained by the agency;

2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;

3. The total amount of recorded BWC data collected and maintained; and

4. This policy, together with the Records Retention Schedule.

Section 41.04 General Guidelines for Recording

A. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to pursuits, *Terry* stops of motorists or pedestrians, arrests, searches, suspect interviews and interrogations, and during any police/citizen contacts that becomes adversarial. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above).

B. Officers have discretion to record or not record general citizen contacts.

C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.

D. Once activated, the BWCs should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.

E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.

F. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless the recording is authorized as part of an administrative or criminal investigation.

Section 41.05 Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

A. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.

B. Officers should use their BWCs and squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

Section 41.06 Downloading and Labeling Data

A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to *[specify data storage location]* by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.

B. Officers shall label the BWC data files at the time of capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. *[Include any technology-specific instructions for this process; if metadata is not being stored, then the information could be documented in a video lot or other record)* Officers should assign as many of the following labels as are applicable to each file:

1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.

2. **Evidence—force:** Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by an officer of this agency of sufficient degree or under circumstances triggering a requirement for supervisory review.

3. **Evidence-property:** Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.

4. **Evidence—administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer.

5. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

6. **Training:** The event was such that it may have value for training.

7. **Not evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence.

C. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals include:

1. Victims and alleged victims of criminal sexual conduct and sex trafficking.
2. Victims of child abuse or neglect.
3. Vulnerable adults who are victims of maltreatment.
4. Undercover officers.
5. Informants.
6. When the video is clearly offensive to common sensitivities.
7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
9. Mandated reporters.
10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
11. Juveniles who are or may be delinquent or engaged in criminal acts.
12. Individuals who make complaints about violations with respect to the use of real property.
13. Officers and employees who are the subject of a complaint related to the events captured on video.
14. Other individuals whose identities the officer believes may be legally protected from public disclosure.

D. Labeling and flagging designations may be corrected or amended based on additional information.

Section 41.07 Administering Access to BWC Data:

A. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:

1. Any person or entity whose image or voice is documented in the data.

2. The officer who collected the data.

3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.

B. **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.

2. Some BWC data is classified as confidential (*see* C, below).

3. Some BWC data is classified as public (*see* D, below).

C. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the "private" classification listed above and the "public" classifications listed below.

D. **Public data.** The following BWC data is public:

1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.

2. Data that documents the use of force by a peace officer that results in substantial bodily harm.

3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted [*if practicable*]. In addition, any data on undercover officers must be redacted.

4. Data that documents the final disposition of a disciplinary action against a public employee.

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data the reveals protected identities under Minn. Stat. §13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

E. **Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to *[the responsible authority/data practices designee]*, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be <u>provided with access and allowed to review</u> recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:

    a. If the data was collected or created as part of an active investigation.

b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. §13.82, subd. 17.

2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:

   a. Data on other individuals in the recording who do not consent to the release must be redacted.

   b. Data that would identify undercover officers must be redacted.

   c. Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

F. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.

2. Agency personnel shall document their reasons for accessing stored BWC data *[in the manner provided within the database] [or, specify manner of documentation]* at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.

3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

G. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat.§13.82, subd.15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.

2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Section 41.08 Data Security Safeguards

A. *[Specify data security safeguards to be used in your agency and in connection with the particular BWC technologies being employed, including any procedures for making backup copies of the data.]*

B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.

C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.

D. As required by Minn. Stat. §13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

Section 41.09 Agency Use of Data

A. At least once a month, supervisors will randomly review BWC usage by each officer to whom a BWC is issued, or available for use, to ensure compliance with this policy *[and to identify any performance areas in which additional training or guidance is required.]*

B. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.

C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Section 41.10 Data Retention

A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.

B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.

C. Certain kinds of BWC data must be maintained for six years:

1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.

2. Data documenting circumstances that have given rise to a formal complaint against an officer.

D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.

E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.

F. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.

G. The department shall maintain an inventory of BWC recordings having evidentiary value.

H. The department will post this policy, together with *[a link to]* its Records Retention Schedule, on its website.

Section 41.11 Compliance

Supervisors shall monitor for compliance with this policy. Noncompliance may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. §13.09.

See Appendix NN Minnesota State Statute #13.01

See Appendix OO Minnesota State Statute #13.82 Subd. 15 & 17

See Appendix PP Minnesota State Statute #13.825 Subd. 9

Section 42.01 Employer Authority

The city manager retains the full and unrestricted right to operate and manage the Municipal Liquor Store personnel, facilities, and equipment. The city manager, in conjunction with the Municipal Liquor store manager, establishes functions and programs; sets and amend budgets; determines the use of technology; establishes and modifies the organization and structure; selects, directs and determines the number of personnel; establishes work schedules; performs any inherent managerial function and amends this handbook at any time.

Section 42.02 Hours of Operation

The Municipal Liquor Store hours change based on the season. Refer to the posted hours for complete hours. Sales of liquor and beer can be made as early as 8:00 AM (off sale).

NO OFF-SALE on Christmas and Thanksgiving. No merchandise may be removed from the premises on these days.

Off-Sale on Sundays, 11am - 6pm permissible per State Statute 340A.504 as of July 1, 2017.

Section 42.03 General Employee Policies

(a) Keys & Security Code

Employees responsible for opening and closing the store are issued keys and the security code. Your keys and the security code are your responsibility. Handle both with care.

If you lose your keys, YOU will be charged to have the building rekeyed. DO NOT give your security code or keys to anyone. Distributing keys or the security code will result in disciplinary actions and possible termination.

☛ NOTE: The security code is changed when an employee is terminated or resigns. The Liquor store manager will provide you the new code when this occurs.

(b) Entering the Building

Enter the building through the employee entrance or front doors. Turn off the alarm and lock the door behind you.

NOTE: All doors must be shut to operate the alarm. Motion within the building when the alarm is on will set off the alarm. You have 20 seconds to deactivate the alarm when you come in or go out.

(c) Scheduling

The liquor store manager establishes the work schedule bi-weekly. When scheduled, you are responsible for being at your work area at the start of your shift.

Opening Off-Sale staff must arrive 15 minutes prior to store open time. Employees are otherwise not permitted to log in prior to their scheduled start time. Any early arrivals or late departures must be approved by the liquor store manager. A deviation from this policy will result in disciplinary action and possible termination.

(d) Trading Shifts

If you cannot work a shift, you are responsible for locating a replacement. Any shift changes must be approved by the liquor store manager in advance.

Once a change is approved, notate the change on the master schedule.

(e) Tardiness

If you will be later for work, contact the employee on duty to inform them of your expected arrival time. Repeated late arrivals will result in written reprimand, suspension or termination.

(f) Time Off Requests

Time off requests must be submitted to the Liquor store manager in writing as soon as possible.

NOTE: Submitting a request for time off does not guarantee time off will be granted. Every effort will be made in granting reasonable requests for time off with consideration given to seniority and previous requests for time off granted.

Management retains the authority to postdates blocked from requests for time off due to holidays, upcoming events, and staff availability (i.e., Gateway to the Northland Festival, 4th of July, etc.).

(g) Illness

If you are unable to work a scheduled shift due to illness or other emergency, contact the liquor store manager as soon as possible. Lack of proper notification may be cause for disciplinary action or dismissal.

NOTE: Whenever physically possible, attempt to locate another employee to cover your scheduled shift.

If you are unable to work for an extended period of time due to illness or accident, prior to returning to work, you may be required to provide medical evidence that you will be able to perform all significant duties of your position in a competent manner without hazard to you or others.

Claiming to be sick when physically fit may be cause for disciplinary action including suspension, demotion or dismissal.

Refer to Article 23 - Earned Sick and Safe Leave for more information.

(h) Pay Period

The regular payday for all liquor store employees will be biweekly; the payroll is calculated for the two-week period through the Sunday prior to the Wednesday payday. In most cases, direct deposits will be in bank accounts by Wednesday.

If a payday falls on an official holiday, employees' direct deposit will be in their banks within 2-3 days.

DIRECT DEPOSIT: Mandatory

(i) Employee Purchasing

Alcohol from off-sale must be purchased after your shift unless you are working past 10 PM. In this case, all off-sale purchases must be made by 10 PM.

Another staff member must complete all employee purchases (if possible).

The employee must keep a copy of the receipt attached to the item purchased.

Any deviation from this policy may result in disciplinary actions and possible termination.

(j) Work Attire

Each employee is provided with 2 shirts and one pull-over (if working fall/winter). You may purchase additional shirts at cost. Wear respectful pants, shorts or skirts. Pants with holes or rips are NOT permissible unless approved by the liquor store manager.

(k) Employee Attitude

All employees are expected to use common sense and good judgment whether working or socializing. Treat all people just like you want to be treated. Bad Language, excessive loudness, and bad attitudes will not be tolerated, especially from employees.

Any deviation from this policy may result in disciplinary actions and possible termination.

(l) Employee Meetings

Employee meetings are conducted on an as needed basis for the purpose of increasing product and industry knowledge, reviewing policies, procedures and safety standards, and to discuss promotions, suggestions and ideas.

Attendance is required, unless absence has been approved by the liquor store manager. If you miss a meeting, it is your responsibility to discuss the topics with the liquor store manager.

You will be paid your liquor store hourly rate for the length of the meeting.

(m) Lifting

Safety of our employees is a concern. When handling large items, you are encouraged to use two-wheeled hand trucks.

Employees are prohibited from lifting kegs of beer or pop while on duty. Customers are to be notified at the time of ordering that they must provide their own carry out service for kegs.

All employees must be able to lift 50 pounds or more.

(n) Personal Calls

Liquor store telephones are intended for business uses only. Use of telephones for personal calls is discouraged. If you must make or receive a personal call, please use your own personal cell phone. Keep telephone conversations brief while on duty.

If you have to use a business line for personal purposes, no personal long distances calls are permitted.

(o) Break Periods

Full time employees working under conditions where a break period is practical shall be granted a 15-minute break each half of the employee's shift. This is the only policy that is required by law for our city employees.

However, the Liquor store manager does feel that all employees need to take a break to rest and refuel for the rest of their shift, so employees working a 3–7-hour shift are encouraged to take a 15-minute break. Those employees working an 8-hour shift may take a 15-minute lunch and a short break in the afternoon. If an employee feels they need a 30-minute lunch, please talk to the Liquor store manager.

Breaks can only be taken when it is not busy-customers come first!

Section 42.04 General Customer Service

In today's retail environment, the customer is more knowledgeable than ever before. They expect prompt, professional service with extensive follow through as to their needs and requests. As a member of the Milaca Municipal Liquor Store staff, it is your responsibility to ensure customers are shown the courtesy and service expected in today's retail world.

We pride ourselves in maintaining the highest possible level of professionalism and service to our customers. The following guidelines have been established to assist you in achieving this:

- Respond and greet the customers immediately. This conveys attentiveness to the customers while deterring potential shoplifters.
- Always put the customer first.
- Use a pleasant tone of voice; how you sound can often be as important as what you say.
- Listen; extremely important role in positive communication.
- Address the customer by name (if known).
- Assure that all customers are provided any applicable discounts.
- Complete special-order requests as applicable (see Section 42.07 Special Orders).
- Assist the customer to the best of your ability, if you are unable to answer their questions, seek assistance from a more experienced employee if possible.
- Always thank them for stopping.
- Remember, customer service requires the sales representative to offer "every" customer information on the products we carry in a knowledgeable manner. This goal is achieved through consistent reading industry related literature and books provided and by acquiring information from the more experienced staff members.

Section 42.05 Customer Identification

As a Municipal Liquor Store staff member, it is your legal responsibility to verify that all customers are of legal drinking age (21 years of age). You are also responsible to verify age for selling THC and edible products. **Selling alcoholic beverages to an underage individual is punishable by law under Minnesota State Statute 340A.503.**

Our policy is to ID if a customer is under 30 (looks under 40). Whenever there is doubt, check the ID. If there is no ID, there is no service for that person regardless of what anybody says.

The law says, if you ask anybody for an ID, they must produce it or you cannot serve them even if you know they are old enough.

Forms of Identification Accepted:

The City of Milaca will accept the following forms of identification:

1. Valid photo Minnesota or out of State Driver License.

   Paper license application must accompany all clipped driver's license.
2. Valid photo Minnesota Identification Card with one other form of ID.
3. Tribal ID.
4. Amish ID (no photo required).

When reviewing an ID, verify the expiration date, date of birth and photo. If the license is expired, we cannot accept it.

If you have any doubts, do not make the sale.

Fake Identification

In the event that you identify a false or altered identification, or if a minor is attempting to purchase, complete the following process:

1. Withhold the identification from the customer.
2. Call and notify the police 911, inform the dispatcher whether the person is waiting or has left the premise.
3. If the customer agrees, have them wait for police verification. Do not ever place yourself or others in jeopardy by attempting to detain the customer.
4. If the customer flees the building, document the following information on an incident report immediately:
   Vehicle make, model and description
   Vehicle license number
   Description of the suspect.
   Direction the suspect headed.
5. Release identification to the responding officer.
6. Document all information on an incident report.

Section 42.06 Telephone Etiquette

The telephone is to be considered our lifeline to the potential customer. The person at the other end of this line forms his/her first opinion of our organization according to how we handle their call.

When answering the phone:

- Your greeting should be friendly.
- Never assist a customer at the register while conversing on the telephone. If the telephone rings while waiting on a customer, finish waiting on customer and then answer the phone.
- When taking messages, always write down all information clearly and concisely.
- If the customer is calling to communicate a complaint, forward his/her telephone call to the liquor store manager or take a message if the liquor store manager is not available. Notify the complainant that someone will contact them as soon as possible.

Section 42.07 Special Orders

We are committed to providing superior customer service and selection, all attempts will be made to satisfy the customer's needs. In today's ever evolving spirit industry, it would be impossible for Milaca Municipal Liquor Store to carry and maintain every product available in the market. When a customer requests a product that we currently do not carry the following steps should be taken:

- Obtain customer name and phone number and product request. Notify them the Liquor store manager will get back to them.
- Submit to the Liquor store manager.
- The Liquor store manager will contact the customer with availability and pricing.

Section 42.08 Customer Related Issues

(a) Language and Customer Behavior

Discourage bad language and never use it yourself in the store - whether working or not. If a customer is using bad language, ask them to stop. If they persist, let them know that they will need to leave. If there are issues, contact the Liquor store manager.

(b) Customer Fighting

Should an argument between customers occur, do your best to subdue them but don't put yourself at risk. In extreme cases, contact the Liquor store manager and/or Police Department and complete an Incident Report form.

When the Police are involved, none of the parties involved in the altercation will be allowed in the store for a minimum of 30 days.

(c) Customers Behind the Counter

Customers are not allowed behind the counter under any circumstance. Only employees & approved repair people are allowed behind the counter.

(d) Customer Use of Phone

If a customer requests to make a call, dial the phone for them. Local calls are permitted only.

(e) No Shirt • No Shoes • No Booze

Customers are required to wear proper attire at all times. Any customer not adhering to this policy will be asked to leave.

(f) Shoplifting

If you notice someone take something, ask them to pay for it or put it back. Do not interfere if you think there is a danger to yourself. If you suspect something but are not comfortable confronting the individual, note the time they were in, vehicle information and any other information you notice and contact the liquor store manager IMMEDIATELY. The liquor store manager will check the tapes and proceed accordingly.

(g) In-Store Tasting

We do not allow customers to taste merchandise before purchasing it. However, on occasion, when there is a new product, the Municipal Liquor Store may utilize in store tasting as a marketing tool. This allows customers the opportunity to sample new and unique products prior to purchasing.

Customer tastings are regulated by Minnesota State Statute 340A.510; samples of malt liquor, wine, liqueurs, cordials, and distilled spirits may be dispensed at no charge to the customers in a quantity of less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, 25 milliliters of liqueur or cordial and 15 milliliters of distilled spirits per variety per customer.

☛ NOTE: Customers who appear to be under the age of 30 must provide valid identification prior to sampling.

Samples will not be dispensed to any customer who appears to be obviously intoxicated.

For educational purposes, employees are allowed to sample the products in accordance with Minnesota State Statute 340A.510. Employee abuse of this privilege may result in a written warning or termination.

At the completion of the tasting, any remaining product should be given to the liquor store manager.

Section 42.09 Off Sale Procedures

AM/PM Off Sale

Opening liquor store employees should arrive no less than 30 minutes before opening.

(a) Opening

1. Enter through employee door and disarm security alarm.
2. Turn On store lights.
3. Unlock Office door.
4. Fill in timecard.
5. Turn On security camera computer screen.
6. Open safe.
7. Count tills to $500.00 and put money in appropriate till bags.

8. Count change bank to $1,000.
9. Put bags and change bank in safe and lock it.
10. Put tills in the registers.
11. Turn On registers and log in.
12. Unlock front doors, turn on radio.
13. Smile!!!!!!!

(b) Daily Checklist of Duties

1. Stock both main coolers do not overstock lines.
2. Haul warm beer in coolers as needed!
3. Check 6-packs to be made.
4. Stock wine and liquor that we sell in cave.
5. Stock Pepsi, 7Up, Monster and Red Bull Coolers.
6. Stock Tobacco and Tubes.
7. Stock all liquor. Always pull bottles forward when too busy to stock them.
8. Stock soda and mixes.
9. Stock pints, ½ pints and 50mls.
10. Pull wine forward, stock best sellers and bottles down to 2 bottles (Do Not Overstock Top Shelf!)
11. Clean bathroom.
12. Sweep and mop floors (in front of coolers, by checkout, up front, entry way and bathroom).
13. Vacuum all rugs and carpet.
14. Clean counter tops as needed!
15. Break down and take out cardboard.
16. Clean entry way doors, glass and frame.
17. Take out garbage (front, bathroom, back room and office) Don't forget outside!!
18. Fill Humidor and stock cigars.
19. Fill displays.
20. Stock THC racks
21. Don't forget to SMILE!

(c) Things to Do When Main Duties are Done

Remember to keep busy. If management hears you are just standing around, you will find your hours being given away to those that work hard.

1. Clean shelves and wipe off bottles.
2. Sweep and mop back room.
3. Sweep and mop coolers.
4. Clean window and ledges,
5. Dust wine racks, take out bottles and wipe down.
6. Wipe down pint shelves and bottles.
7. Clean Pepsi, 7-Up, Monster and Red Bull coolers (wipe shelves, racks, top, front, doors and dust vents).
8. Wipe/dust off cash registers and surrounding areas.
9. Restock bags, cigarettes, papers, and miscellaneous.
10. Wash baseboards throughout the store.
11. Clean ceiling vents.
12. Clean light fixtures.
13. Dust signs and pictures on the wall.
14. Sweep outside sidewalks.
15. Pick up garbage outside and around building.
16. Wash dishes.
17. Organize in the back room.

(d) Closing

1. 3-5 minutes to 1O p.m., lock store doors. Any customer in store must be rung up and let out before 10 p.m.
2. Hit No-Sale on both registers and remove tills.
3. Reports for both registers.
4. Tap Dept. Menu.
5. Tap Mgr. Menu.
6. Tap Rpt. One Cashier.
7. Tap Rpt. End of Day.
8. Tap Rpt. Financial.

9. Put slips in each till.
10. Turn Off lights.
11. Count tills to $500 and drop money in safe.
12. Put tills and all monies in safe and lock it.
13. Turn Off all computer MONITORS ONLY!
14. Lock Office door.
15. Turn on Security Alarm.
16. Exit building through employee exit and make sure door is locked behind you.

Section 42.10 Cash Drawer Variances

Our expectation is that cash drawers balance out to zero each night.

In cases where the variance is greater than $5.00, progressive discipline will apply (1st offense is verbal, 2nd is written, and 3rd is suspension and 4th is recommended termination to the city manager). Note - progressive discipline restarts annually at the anniversary of the 1st offense.

In cases where the variance is greater than $20, the liquor store manager will notify the city manager. The offending employee will be re-trained and will at least be issued a written warning. Additional discipline, including possible termination, will be determined by the liquor store manager and city manager.

Section 42.11 Payment Acceptance Procedures

Credit Card

We accept all major credit cards (Visa, Mastercard, Discover, Amex)

Keep all credit card receipts.

Section 42.12 Smoking

No smoking in building. This is state law.

Section 42.13 Incident Reporting

Incident reports are a communication tool employed in documenting any occurrences, which may jeopardize the safety, security, or the integrity of the City of Milaca, the liquor department, or its staff.

Incident reports must be completed immediately following any circumstances involving shoplifting, theft, underage attempts to purchase, intoxicated individuals attempting to purchase, observance of suspicious individuals or vehicles and any circumstance in which the police department has been notified.

Incident reports should be written in a clear, professional manner and should include the following information:

- Date
- Time of occurrence
- Full names and identification of all employees on duty at the time of the incident.
- Responding police officer's name or badge identification
- Vehicle description and license plate number. (If applicable). Suspect description.
- Brief but precise description of the incident.
- Signature of primary staff member involved.

Blank forms are provided in office desk drawer.

Section 42.14 Emergency Closing

In any emergency, the city manager, liquor store manager or Police Department has the authority to close the Liquor Store. Once closed, it will remain closed for the rest of the day.

Emergency examples may be snow storms, power outages, etc.

Once the announcement has been made to close - all service must be discontinued at once.

No more sales-- Nothing. Customers have a MAXIMUM of 10 minutes to leave the premises.

What to do if the Liquor Store closes (early or regular time) & people are caught here with no place to go, notify Police Department.

Try as best you can to find places for them.

As last resort, send over to the hotel next door to the Liquor Store.

Section 42.15 Power Outage Procedure

In the event of a power outage, the primary concern is to ensure the safety of the employees and customers, as well as maintaining security of the operation.

Handwrite all sales made during power outage. These are to be entered when power comes back on. Call management and notify them of the situation.

Management will advise employees of the procedures to be taken.

Document time and procedures taken during the power outage on an incident report sheet.

See Appendix QQ Minnesota State Statute 340A.504

See Appendix RR Minnesota State Statute 340A.503

See Appendix SS Minnesota State Statute 340A.510

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COMPUTER USE POLICY ACKNOWLEDGEMENT

Employee signature

I have received and read the Computer Use Policy and have had an opportunity to ask any questions. I understand that my failure to follow this policy may result in disciplinary action, including revocation of system privileges or termination.

_____ (Print Employee Name)

_____ (Employee Signature)

_____ (Print Department Name)

_____ (Date)

CITY OF MILACA Minnesota
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

Remote Work Agreement

APPENDIX B

Employee Name:		Date:	
Department:			

This Agreement is not a contract and can be changed or cancelled by the City at any time, at the sole discretion of the City.

REMOTE WORK SCHEDULE

Effective date of remote work schedule (mm/dd/yyyy):	

The following will be your normal remote work schedule. All overtime work must be pre-approved by your supervisor.

Day of the Week	*Work Hours* Example: 8:00 AM – 4:30 PM	*Location* R = Remote work O = City Office
Monday		
Tuesday	Enter Tuesday work hours here.	Enter T or O to indicate remote work location on Tuesdays.
Wednesday		
Thursday	Enter Thursday work hours here.	Enter T or O to indicate remote work location on Thursdays.
Friday		

EQUIPMENT/SUPPLIES

Item Type	Serial Number (if applicable)	Description of Item
Enter first item type	Enter first item's serial number	Enter Yes or No
Enter third item type	Enter third item's serial number	Enter Yes or No

COMMUNICATION/AVAILABILITY

List communication expectations of remote worker, including expected response time, etc.

PERFORMANCE EXPECTATIONS

List how employee's work will be monitored or evaluated, including any details on measuring performance.

CANCELLATION

This Remote work Agreement can be cancelled at any time by either party. If you wish to cancel this Remote work Agreement, you must provide sufficient advance notice to your supervisor.

SPECIAL CONDITIONS

List any additional instructions, conditions, restrictions, or exceptions relating to this Remote work Agreement.

CITY REMOTE WORK TERMS AND CONDITIONS

I agree to perform services for the City of Milaca as a remote worker. I understand and agree that remote work is a management tool to be used at the sole discretion of the City and is voluntary. As such, I understand and agree that my remote work arrangement may be changed or cancelled at any time, at the City's sole discretion.

I have read, understood, and agreed to the Remote Work policy and the terms and conditions specified in this agreement, including the requirement to set up an appropriate remote work station as shown in Appendix A to the policy.

I understand that I am expected to comply with all City policies, guidelines, rules, regulations, and state and federal laws while I am remote working in the same manner as if I was not remote working.

I have read and agree to the terms and conditions of this Agreement.

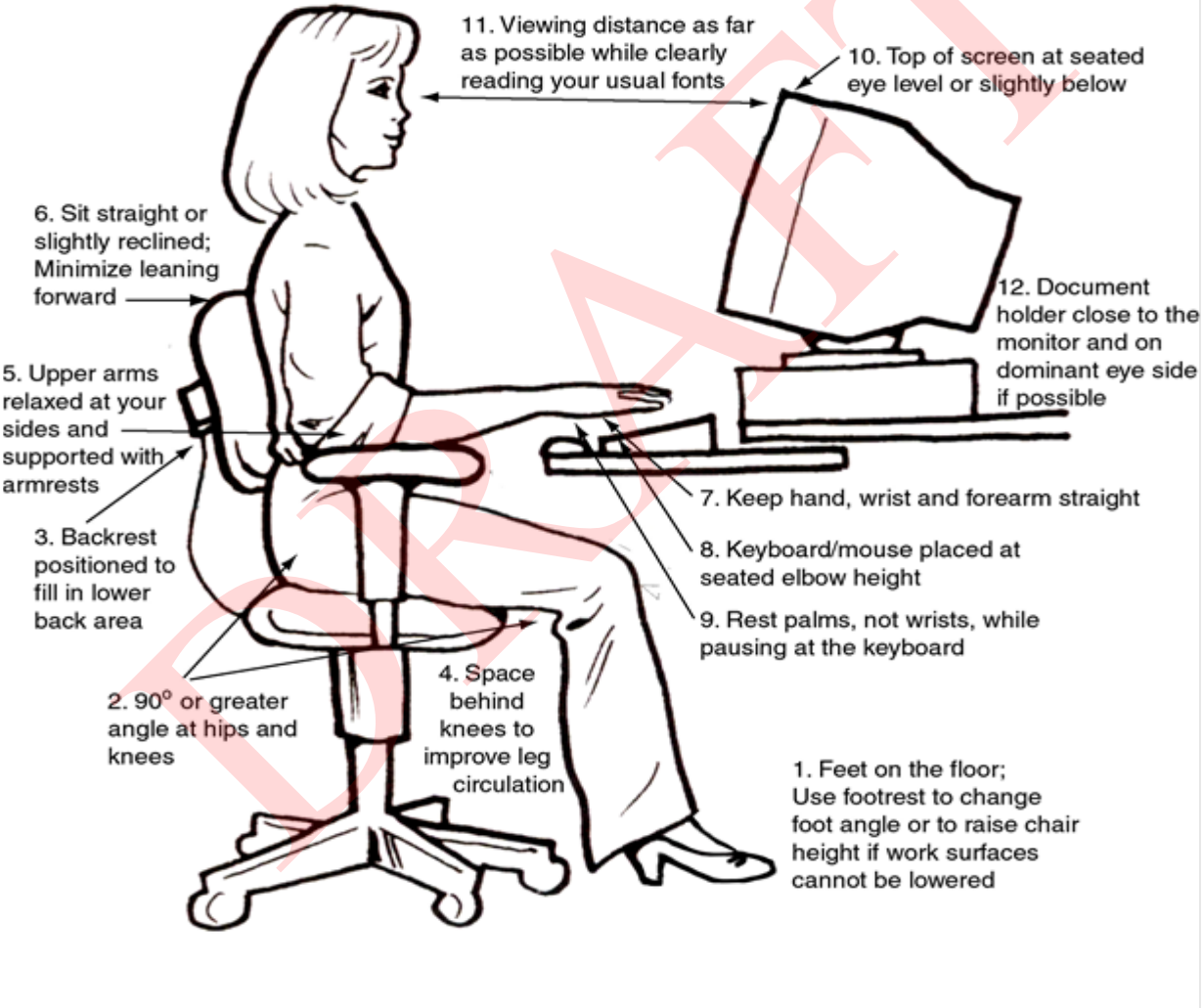
Supervisor Signature:		Date:	
Dept. Director Signature (if applicable):		Date:	
City Manager Signature:		Date:	
HR Director Signature:		Date:	
Employee Signature:		Date:	

Original to Personnel File Copy to Employee Copy to Supervisor

Office Ergonomics Guide Sheet

You may not be aware of it, but over time, working at your computer may be needlessly overstressing parts of your body. Sore muscles, eyestrain, tension and fatigue could be reduced by modifying your workstation.

The diagram below is an overview of an ergonomic workstation for a computer user. Ideally you should position your work surfaces and computer accessories to fit you after you are first sitting properly in your ergonomically adjusted chair.



471.382 CREDIT CARDS.

A city council or town board may authorize the use of a credit card by any city or town officer or employee otherwise authorized to make a purchase on behalf of the city or town. If a city or town officer or employee makes or directs a purchase by credit card that is not approved by the city council or town board, the officer or employee is personally liable for the amount of the purchase. A purchase by credit card must otherwise comply with all statutes, rules, or city or town policy applicable to city or town purchases.

History: *2001 c 13 s 3*

CITY OF MILACA
CREDIT CARD POLICY
ACKNOWLEDGMENT

The City of Milaca is authorizing you to use one of its credit cards on its behalf. It is important that you understand the rules regarding its use. If the rules are not followed, the city may cancel the card and you may be personally liable for any misuse.

□ Credit cards may only be used for appropriate city business. No employee will intentionally use a City of Milaca credit card for personal purchases. Unauthorized use or abuse of a city credit card will result in disciplinary action, up to and including termination of employment.

□ The credit card shall not be used to obtain a cash advance.

□ The credit card must be protected from theft or unauthorized use.

□ Employee may not write down the credit card number with intentions to use again without checking out the credit card from the City Manager. Credit Card must be checked out each time.

□ Any Credit Card Rewards earned while purchasing items for the city must be returned to the city.

□ The City Manager's Office must be notified immediately if the card is lost, stolen or if you suspect unauthorized use.

□ Receipts or invoices for each credit card use must be signed and submitted within five (5) days to the Accounts Payable Office for processing.

□ I have read the above statements and the attached Credit Card Use Policy and agree to abide by the city credit card policies and procedures. I understand any misuse of these policies and procedures I will be liable for purchases not authorized.

Date_____ _____

Employee Signature

ORDINANCE NO. 486
TITLE IX GENERAL REGULATIONS

Chapter 97 - Possession, Use and Discharge of Firearms

____.01 **Definitions.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) "Bodily harm" means physical pain or injury, illness or any impairment of physical condition.

(B) "Bows and arrows" or "bow and arrow" means any device or combination of devices designed to propel any arrow from a cord connecting the two ends of a bow by pulling on the cord, thus bending the bow and then releasing the cord; except it shall not mean devices of this type commonly interpreted to be toys.

(C) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing bodily harm, or any other device or instrument which, in the manner it is used or intended to be used, is calculated or likely to produce bodily harm.

(D) "Firearm" means any device from which is propelled any missile, projectile, bullet or other mass through a barrel by means of explosives, gas, air and/or spring devices, except that any device that discharges blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports.

____.02 **Prohibited Activity.**

(A) It shall be unlawful to do the following:

(1) Recklessly handle or use a firearm, bow and arrow, dangerous weapon or explosive so as to endanger the safety of another;

(2) Intentionally point a firearm of any kind, whether loaded or unloaded, at or toward another;

(3) Possess any device or weapon known as a slingshot, sand club, metalknuckles, switchblade knife, dagger, stiletto, dirk, blackjack, chain club, pipe club, Molotov cocktail, grenade, throwing star or similar device;

(4) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; and

(5) Sell or have in possession any device designed to silence or muffle the discharge of a firearm.

(B) Division (A) above shall not apply to the articles mentioned when they are carried or possessed as curiosities for their historical significance or value.

_____.03 Discharge and Uses Prohibited.

(A). Except in accordance with this subchapter, it shall be unlawful to discharge or use any firearm or bow and arrow or archery activity within the corporate boundaries of the city.

(B) Bow or Archery Activity.

(A) For the purpose of this section, bow or archery activity means a weapon or act of using a weapon for shooting arrows, typically made of a curved material whose ends are joined by a taut string.

(B) Bow or archery activity is permitted subject the below hunting program specific conditions:

(1) The location and boundaries of the lands within city limits where the taking of deer or other animals with the use of archery hunting techniques under the program is permitted. Minimum parcel size of ten contiguous acres is required for archery hunting activities. Archery hunting may not occur within 500 feet of any building not on the owner's property. Archery hunting is restricted to the R-1 Single Family Residential Zoning District;

(2) Notwithstanding division (A) above, an individual may allow and permit the use of a firearm or shoot an arrow from a bow at a facility designed for shooting and target practice; provided, the facility complies with state rules and regulations and has been approved by the city to conduct such business;

(3) The days and hours during which the taking of deer or other animals is permitted under the program matches state regulation for hunting activities as published by the DNR. No taking of a big game animal from, on or across a road right-of-way, is permitted. If land adjacent to private property is posted, one cannot legally retrieve their deer without permission from the landowner;

(4) Hunters must make every effort to make a quick and clean harvest and recovery;

(5) Hunting on private property requires written permission from the landowner.

(6) Landowners are required to obtain an Archery Hunt permit from the city. Hunters must keep the Archery Hunt permit in their possession with the DNR license while hunting. Proof of a DNR Hunting license will be required;

(7) Hunting on private property is allowed. Hunters are not otherwise restricted from such activities by state statute or ordinance; and

(8) Persons permitted to participate in the program must follow all applicable state hunting and conservation regulations.

(9) Bows and archery activity is permitted on properties identified and qualified under provision B (1) above, at the City of Milaca Archery Range, or on school grounds in connection with an organized school event or class provided that the arrows used shall be equipped with blunt tips (also known as "field points" or "target arrows"). It shall be unlawful for any person under the age of 15 years, unless accompanied by a parent or legal guardian, to use a bow and arrow at the City of Milaca Archery Range. For the purposes of this section, the word "guardian" is defined as legal guardian or any other person over the age of 18 years who has been selected by the parent or legal guardian to supervise the person under the age of 15 years.

(C) Certain firearms, limited to shotguns, muzzle loaders, bow and arrow and cross bow may be discharged on any approved firearms range or other location approved by the chief of police.

(D) Except for discharge, this section intends neither to further restrict nor to permit what is restricted in M.S. §624.711 through 624.7192.

(E) Under the conditions for discharge allowed in this section, it shall be unlawful for any person to be under the influence of alcohol, narcotics or any other drug when discharging a firearm or bow and arrow.

(F) Nothing in this section shall be construed to include any discharge of any firearm or bow and arrow when done in the lawful defense of person, family, property or within the basement of a private residence.

(G) Nothing in this section shall be construed to include any discharge of any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition when used for construction purposes.

____.04 Transportation Requirements.

(A) It shall be unlawful to transport any firearm in a motor vehicle, airplane, snowmobile or boat unless the same is unloaded in both barrels and magazine and completely contained in a gun case expressly made for that purpose which is fully enclosed by being zipped, snapped, buckled, tied or otherwise fastened, with no portion of the firearm exposed, or unless unloaded and contained in the trunk of a car with the trunk door closed, except that pistols and revolvers may be transported when done in accordance with M.S. §§ 624.711 through 624.717.

(B) It shall be unlawful to transport the following in a motor vehicle, airplane, snowmobile or boat:

(1) A bow and arrow unless unstrung, completely contained in a case or unless contained in the trunk of a car with the trunk door closed; or

(2) A muzzle loading firearm unless fully unloaded and completely contained in a gun case expressly made for that purpose which is fully enclosed by being zipped, snapped, buckled, tied or otherwise fastened with no portion of the firearm exposed, or unless unloaded and contained in the trunk of a car with the trunk door closed. A muzzle loading firearm with a flintlock ignition is fully unloaded it if has no priming powder in any pan and a muzzle loading firearm with percussion ignition is fully unloaded if it has no percussion cap onany nipple.

____.05 Possession by Minors.

(A) Except in accordance with this section, it shall be unlawful for any person under the age of 16 years, unless accompanied by a parent or guardian, to have in his or her possession or under his or her control, any firearm for any purpose. For the purposes of this section, the word "guardian" is defined as legal guardian or any other person over the age of 18 years who has been selected by the parent or legal guardian to supervise the person under the age of 16 years while he or she has in his or her possession or under his or her control any firearm.

(B) This section shall not apply to any person between the ages of 14 years and 16 years who has the certificate provided for in M.S. §97.81, or to any person participating in the course provided by the section to carry a properly encased and unloaded firearm to and from class and to handle the same during the instruction. Also, the person shall be allowed participation in organized target shooting programs conducted under qualified adult supervision.

(C) It shall be unlawful for a parent or guardian to permit a child under 14 years of age to handle or use outside of the parent's or guardian's presence, any firearm, any ammunition or any explosive.

(D) It shall be unlawful for any person to furnish a minor under 18 years of age with any firearm, any ammunition, or any explosive without the written consent of the minor's parent or guardian.

_____.06 Exception. This subchapter does not apply to law enforcement officers and members of the armed services of either the United States or the state for use in the course of their duties.

____.07 Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor, grossmisdemeanor or a felony as authorized by law.

Passed this 21st day of October 2021.

Mayor Harold Pedersen

ATTEST

Tammy Pfaff, City Manager

1st reading: 09-16-21
2nd reading: 10-21-21
Published _____

364.06 VIOLATIONS; PROCEDURE; REMEDIES.

Subdivision 1. Public employers. Any complaints or grievances concerning violations of sections 364.01 to 364.10 by public employers or violations of section 364.021 by public appointing authorities shall be processed and adjudicated in accordance with the procedures set forth in chapter 14, the Administrative Procedure Act.

Subd. 2. Private employers. (a) The commissioner of human rights shall investigate violations of section 364.021 by a private employer. If the commissioner finds that a violation has occurred, the commissioner may impose penalties as provided in paragraphs (b) and (c).

(b) For violations that occur before January 1, 2015, the penalties are as follows:

(1) for the first violation, the commissioner shall issue a written warning to the employer that includes a notice regarding the penalties for subsequent violations;

(2) if a first violation is not remedied within 30 days of the issuance of a warning under clause (1), the commissioner may impose up to a $500 fine; and

(3) subsequent violations before January 1, 2015, are subject to a fine of up to $500 per violation, not to exceed $500 in a calendar month.

(c) For violations that occur after December 31, 2014, the penalties are as follows:

(1) for employers that employ ten or fewer persons at a site in this state, the penalty is up to $100 for each violation, not to exceed $100 in a calendar month;

(2) for employers that employ 11 to 20 persons at a site in this state, the penalty is up to $500 for each violation, not to exceed $500 in a calendar month; and

(3) for employers that employ more than 20 persons at one or more sites in this state, the penalty is up to $500 for each violation, not to exceed $2,000 in a calendar month.

(d) The remedies under this subdivision are exclusive. A private employer is not otherwise liable for complying with or failing to comply with section 364.021.

History: 1974 c 298 s 6; 1982 c 424 s 130; 2013 c 61 s 4; 2023 c 52 art 19 s 20

364.09 EXCEPTIONS.

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (f); to fire protection agencies; to eligibility for a private detective or protective agent license; to the licensing and background study process under chapters 245A and 245C; to the licensing and background investigation process under chapter 240; to eligibility for school bus driver endorsements; to eligibility for special transportation service endorsements; to eligibility for a commercial driver training instructor license, which is governed by section 171.35 and rules adopted under that section; to emergency medical services personnel, or to the licensing by political subdivisions of taxicab drivers, if the applicant for the license has been discharged from sentence for a conviction within the ten years immediately preceding application of a violation of any of the following:

(1) sections 609.185 to 609.2114, 609.221 to 609.223, 609.342 to 609.3451, or 617.23, subdivision 2 or 3; or Minnesota Statutes 2012, section 609.21;

(2) any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or

(3) a violation of chapter 169 or 169A involving driving under the influence, leaving the scene of an accident, or reckless or careless driving.

This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the Professional Educator Licensing and Standards Board or the commissioner of education.

(c) Nothing in this section precludes the Minnesota Police and Peace Officers Training Board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the Board of Medical Practice pursuant to section 147.091, subdivision 1a.

(e) This chapter does not apply to any person who has been denied a license to practice chiropractic or whose license to practice chiropractic has been revoked by the board in accordance with section 148.10, subdivision 7.

(f) This chapter does not apply to any license, registration, or permit that has been denied or revoked by the Board of Nursing in accordance with section 148.261, subdivision 1a.

(g) This chapter does not apply to any license, registration, permit, or certificate that has been denied or revoked by the commissioner of health according to section 148.5195, subdivision 5; or 153A.15,

subdivision 2.

(h) This chapter does not supersede a requirement under law to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.

History: 1974 c 298 s 9; 1983 c 304 s 5; 1986 c 444; 1Sp1986 c 1 art 9 s 28; 1987 c 378 s 16; 1989 c 85 s 1; 1989 c 171 s 8; 1989 c 290 art 8 s 2; 1990 c 542 s 16; 1991 c 265 art 9 s 69; 1992 c 499 art 8 s 24; 1992 c 578 s 54; 1993 c 159 s 1; 1995 c 18 s 12; 1995 c 226 art 3 s 45; 1997 c 248 s 44; 1Sp1997 c 2 s 58; 1998 c 398 art 5 s 55; 1999 c 191 s 1; 2000 c 478 art 2 s 7; 2001 c 144 s 1; 2003 c 15 art 1 s 33; 2003 c 130 s 12; 2005 c 10 art 2 s 4; 2010 c 349 s 2; 2013 c 61 s 5; 2014 c 180 s 9; 2014 c 291 art 4 s 57; 2015 c 77 art 4 s 21; 1Sp2017 c 5 art 12 s 22; 1Sp2017 c 6 art 10 s 136

364.10 VIOLATION OF CIVIL RIGHTS.

Violation of the rights established in sections 364.01 to 364.10 by a public employer shall constitute a violation of a person's civil rights.

History: 1974 c 298 s 10; 2013 c 61 s 6

ORDINANCE NO. 399

ORDINANCE RELATING TO CRIMINAL HISTORY BACKGROUND
FOR APPLICANTS FOR CITY EMPLOYMENT AND CITY LICENSES

BE IT ORDAINED by the Mayor and Council of the City of Milaca, Mille Lacs County, Minnesota, as follows:

Section 1. That the Milaca City Code shall be amended by adding a new Chapter, as follows:

EMPLOYMENT BACKGROUND CHECKS

APPLICANTS FOR CITY EMPLOYMENT

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described below.

CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS: The Milaca Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

Employment positions: All regular part-time or full-time employees of the City of Milaca, and other positions that work with children or vulnerable adults.

In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, including the City Council, the City Manager, or other city staff involved in the hiring process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

A. The grounds and reasons for the denial.
B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
C. The earliest date the applicant may reapply for employment.
D. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 2. That the Milaca City Code shall be amended as follows:

LICENSE BACKGROUND CHECKS

APPLICANTS FOR CITY LICENSES

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS: The Milaca Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city:

City licenses: liquor, tobacco, gambling, peddler license

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Manager, or other city staff involved the license approval process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

A. The grounds and reasons for the denial.
B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
C. The earliest date the applicant may reapply for the license.
D. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 3. That this ordinance shall take effect upon its passage and publication.

Passed by the Milaca City Council on this 13th day of June, 2013.

Mayor Harold Pedersen

ATTEST

Greg Lerud, City Manager

1st reading: 05-16-13
2nd reading: 06-13-13
Published 06.27.13

U.S. Department of Transportation
Office of the Secretary

Office of Drug & Alcohol Policy & Compliance

What Employees Need To Know About DOT Drug & Alcohol Testing

Disclaimer
This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at www.transportation.gov/odapc.

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Office of Drug & Alcohol Policy & Compliance
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What Employees Need To Know About DOT Drug & Alcohol Testing

U.S. Department of Transportation (DOT)
Office of the Secretary (OST)
Office of Drug & Alcohol Policy & Compliance (ODAPC)

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What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as safety-sensitive, such as working on pipelines, driving a truck, operating a ferry or a train, or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

Who is subject to DOT testing?

Anyone designated in DOT regulations as a safety-sensitive employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as safety-sensitive functions subject to testing.

Aviation FAA	Persons that perform safety-sensitive functions, directly or by contract (including subcontract at any tier), for a part 119 certificate holder authorized to conduct part 121 or 135 operations; air traffic control facilities not operated by the FAA or under contract to the U.S. military; and all operators as defined in 14 CFR Section 91.147. The safety-sensitive duties include flight crewmember, flight attendant, flight instructor, air traffic controller, aircraft dispatcher, aircraft maintenance or preventative maintenance, ground security coordinator, aviation screeners and operations control specialist. See FAA regulations at 14 CFR Part 120.
Commercial Motor Carriers FMCSA	Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material.[1] See FMCSA regulation at 49 CFR Part 382.
Maritime USCG[2]	Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.
Pipeline PHMSA	An employee who performs an operation, maintenance, or emergency-response function on a PHMSA regulated pipeline or liquefied natural gas (LNG) facility. See PHMSA regulations at 49 CFR Part 199.
Railroad FRA	Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/ helpers, utility employees, signalmen, operators and train dispatchers. In addition, a person who performs a maintenance-of-way/roadway worker function (as defined in 49 CFR Part 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track, as well, flagman and watchmen/lookouts. See FRA Regulations at 49 CFR Part 219.
Transit FTA	Operators of revenue service vehicles when not in service, Operators of nonrevenue service vehicles when required to be operated by a holder of a commercial drivers' license, controlling dispatch or movement of revenue service vehicle, mechanics maintain a revenue service vehicle or equipment used in revenue service, and Fire armed security. See FTA regulations at 49 CFR Part 655.
Links to these regulations can be found on-line at www.transportation.gov/odapc.	

[1] In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.
[2] An agency of the U.S. Department of Homeland Security.

Remember: The tasks you actually perform qualify you as a safety-sensitive employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes…if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job. Be sure to check industry specific regulations for further clarification.

Why are safety-sensitive employees tested?

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.[3]

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing and how to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out who is subject to testing, when and in what situations. Industry employers implement the regulations that apply to them.

The benefit to all affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly know as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

What information must employers provide when I first begin performing DOT safety-sensitive functions?

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

What conduct is prohibited by the regulations?

As a safety-sensitive employee…

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you…
  - Are under the influence or impaired by alcohol;
  - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
  - Have used any illicit drug.

[3] The Omnibus Act's testing requirements do not apply to PHMSA.

- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.
- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

What drugs does DOT test for?

Specimens Collected for Drug & Alcohol Testing*	
Drugs:	Urine
Alcohol:	Breath & Saliva

** The FRA requires blood specimens as part of their Post-Accident testing.*

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines including methamphetamine, MDMA
- Opioids – codeine, heroin (6-AM), morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone
- Phencyclidine (PCP)

To learn more about the effects of these and other drugs visit the following sites:

- Drugs and Human Performance Fact Sheet. National Highway Traffic Safety Administration (NHTSA) www.nhtsa.dot.gov.
- Driving While You Are Taking Medications. National Highway Traffic Safety Administration (NHTSA) www.nhtsa.dot.gov.
- Drugs of Abuse. National Institute for Drug Abuse (NIDA) https://www.drugabuse.gov/drugs-abuse
- Drug Facts. National Institute on Drug Abuse (NIDA) https://www.drugabuse.gov/publications/finder/t/160/drugfacts
- Drug Fact Sheets. Drug Enforcement Administration (DEA) https://www.dea.gov/druginfo/factsheets.shtml

To learn about where to dispose of unused medicines go to: https://takebackday.dea.gov

Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?

Prescription medicine and OTC drugs may be allowed.[4] However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

[4] The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

Best Practice: To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.[5]
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

Remember: Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

When will I be tested?

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

Pre-Employment
As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.[6] Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

Reasonable Suspicion/Cause
You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning

[5] While states may allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if a state allows the use of marijuana, DOT regulations treat its use as the same as the use of any other illicit drug.
[6] Not every DOT agency requires a pre-employment alcohol test.

your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

Random
You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.[7]

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

Post-Accident
If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.[8] You are required to remain available for this testing and are not permitted to refuse testing.

Remember: Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

Return to Duty
If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service. Return-to-duty tests must be conducted under direct observation.

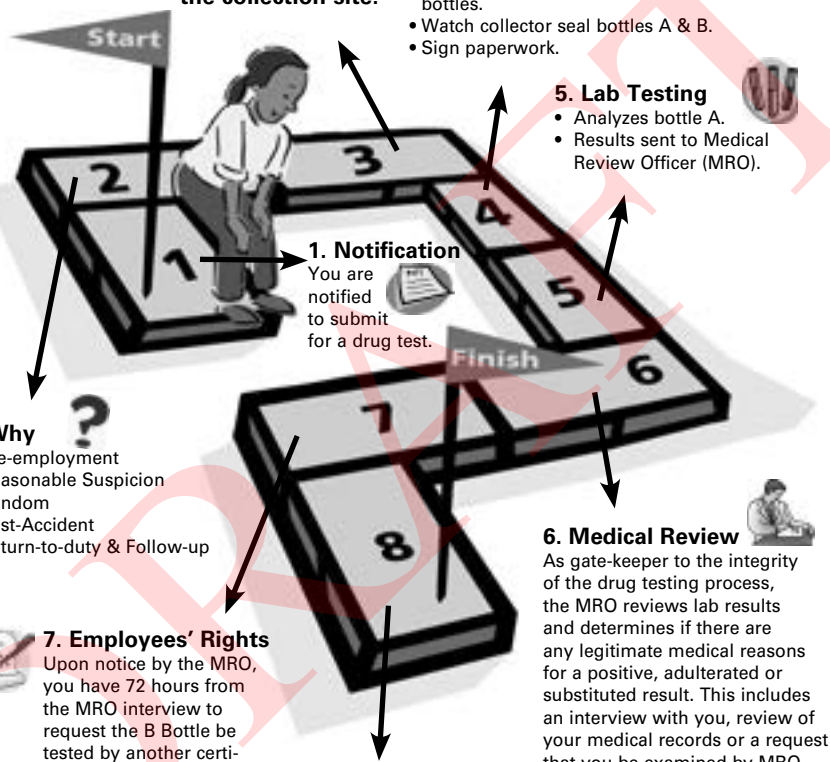
Follow-up
The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. All follow-up tests will be observed.

How is a urine drug test administered?

Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:
- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

[7] USCG & PHMSA do not perform random alcohol tests.
[8] In post-accident testing, the FRA requires a blood specimen for drug testing.

Overview of DOT Drug Testing



1. Notification
You are notified to submit for a drug test.

2. Why
- Pre-employment
- Reasonable Suspicion
- Random
- Post-Accident
- Return-to-duty & Follow-up

3. You report immediately to the collection site.

4. Urine Collection
- Verify ID. • Empty Pockets.
- Select Sealed Kit. • Provide 45 ml + of urine.
- Watch collector check temp and pour into 2 bottles.
- Watch collector seal bottles A & B.
- Sign paperwork.

5. Lab Testing
- Analyzes bottle A.
- Results sent to Medical Review Officer (MRO).

6. Medical Review
As gate-keeper to the integrity of the drug testing process, the MRO reviews lab results and determines if there are any legitimate medical reasons for a positive, adulterated or substituted result. This includes an interview with you, review of your medical records or a request that you be examined by MRO approved physician.

7. Employees' Rights
Upon notice by the MRO, you have 72 hours from the MRO interview to request the B Bottle be tested by another certified lab.

8. Verified Results
MRO verifies results to employer as either:
- Negative • Positive
- Refusal • Cancelled

What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at *www.transportation.gov/odapc*.

The Collection
During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
  - Restricting access to the site to only those being tested.
  - Securing all water sources and placing blue dye in any standing water.
  - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
  - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.

> **Remember**: Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
  - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the "Test Facility Copy" (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
  - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,

- Asked to provide a new specimen (into a new collection container).
- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation[9] within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.

> **How do you know if you are taking a federal or a private company drug test?**
> All DOT drug tests are completed using the Federal Drug Testing Custody and Control Form. Those words appear at the top of each form.

Testing at the Laboratory

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
  - If the specimen tests negative in either test, the result will be reported as a negative.
  - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

> **Remember**: The Lab will conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

Review by the Medical Review Officer (MRO)

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.
- Report a non-negative test result to the DER if:
  - You refused to discuss the results with the MRO;
  - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.

[9] The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Inform you that you have 72 hours from the time of the verified result to request to have your B "split" bottle sent to another certified lab for analysis for the same substance or condition that was found in the A "primary" bottle.

If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?

The DOT's regulation requires the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as 'negative'.

Prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you medically unqualified or does not pose a significant safety risk.

What are Medical Review Officers (MROs)?

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

How is an alcohol test administered?

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee's testing information.

How do you know if you are taking a federal or a private company alcohol test?

All DOT alcohol tests are documented with a form with the words Department of Transportation at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), using only a DOT-approved device, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.

If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not allowed to eat, drink, smoke, belch, put anything in you mouth or leave the testing area.

> **Remember**: Leaving the testing area without authorization may be considered a refusal to test.

- Perform an "air blank" (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.
- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

Confirmation test results are the final outcome of the test.	
Result	**Action**
Less than 0.02	No action required under 49 CFR Part 40.
0.02 – 0.039	Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 120, Subpart F, 120.217(g)]. Also, be sure to check other agency specific regulations for their restrictions.
0.04 or greater	Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.

Should I refuse a test if I believe I was unfairly selected for testing?

Rule of Thumb: Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don't agree with the reason or rationale for the test, take the test anyway. Don't interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company's dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the

appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

What is considered a refusal to test?

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as refusing a test (See 49 CFR Part 40 Subpart I & Subpart N):

Drug Testing:

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to undergo a medical evaluation as part of "shy bladder" procedures.
- Providing a specimen that is verified as adulterated or substituted.
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer's instructions [during a direct observation collection] to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

Alcohol Testing:

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to sign Step #2 of the ATF
- Failure to provide a breath sample for any test required by federal regulations.
- Failure to provide a sufficient breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to undergo a medical evaluation as part of "shy lung" procedures.
- Failure to cooperate with any part of the testing process.

What happens if I test positive, refuse a test, or violate an agency-specific drug & alcohol rule?

If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.

- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
  - Undergone an evaluation by a Substance Abuse Professional (SAP);
  - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
  - Provided a negative test result for drugs and/or a test result of less than 0.02 for alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP). These tests (including the return-to-duty test) will be directly observed.

What are Substance Abuse Professionals (SAPs)?

Under DOT regulations, SAPs are Substance Abuse Professionals. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee's readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT's regulations.

> **Remember**: Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

How do I find a SAP?

If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses, and phone numbers that are available to you and acceptable to them.[10] This is true even if your employer terminates your employment.

Will I lose my job if I violate drug & alcohol regulations?

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

[10] Employers cannot charge employees for the SAP list.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

Will my results be confidential?

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

Will the results follow me to different employers?

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

What should I do if I have a drug or alcohol abuse problem?

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life. Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at http://findtreatment.samhsa.gov/. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

Employee Assistance Programs (EAPs)
While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.

Note: Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!

EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range

of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

Voluntary Referral Programs
Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem before you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.

> **Remember**: Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

Peer Reporting Programs
Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.

Education and Training Programs (required by all Agencies)
Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

Did you know?

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?[11] Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.

> **Remember**: If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

[11] The Dual Challenge of Substance Abuse and Mental Disorders, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

But, I have more questions?

ODAPC is available to help answer anyone's questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at www.transportation.gov/odapc for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

Appendix

Drug & Alcohol Program Manager Contact Information

U.S. Department of Transportation

FAA	Aviation	(202) 267-8442	www.faa.gov
FMCSA	Motor Carrier	(202) 366-2096	www.fmcsa.dot.gov
FTA	Public Transportation	(617) 494-2395	www.transit.dot.gov
FRA	Railroads	(202) 493-6313	www.railroads.dot.gov
PHMSA	Pipeline	(909) 937-7232	www.phmsa.dot.gov

U.S. Department of Homeland Security

USCG	Maritime	(202) 372-1033	http://www.uscg.mil

Notes

Changes from previous version [April 2014]:

- **Inside Front Cover:** Removed room number from office address and paragraph on 'electronic access to publication'
- **Page iv:** Added text "This page intentionally left blank"
- **Page v:** Added text to various section headings to match those in booklet and updated pagination
- **Page 1:** Added/updated text to FAA, PHMSA, FRA and FTA sections of the table
- **Page 3:** Updated list of drugs for which DOT tests
- **Page 3:** Added/removed web resources on 'effects of drugs' and 'where to dispose of unused medicines'
- **Page 4:** Updated footnote #5 to clearly state that State allowance of marijuana is not recognized
- **Page 7:** 11th bullet under 'The Collection' heading, replaced text 'Laboratory Copy' with 'Test Facility Copy'
- **Page 9:** Added new question and answer: "If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?"
- **Page 11:** Reformatted refusal section into "Drug Testing" and "Alcohol Testing" sections
- **Page 15:** Appendix: In the Drug & Alcohol Program Manager Contact Information section, updated PHMSA's telephone number and updated FTA, FRA, and USCG's web addresses
- **Page 15:** Removed ODAPC contact information because it is on the inside cover of this publication
- **Inside Back Cover:** Added section to list text changes from previous version
- **Back Cover:** Changed revision date from 'April 2014' to 'March 2019'
- Updated various web site addresses/hyperlinks throughout the document, and reformatted pages as needed

U.S. Department
of Transportation

REV. March 2019

181.953 RELIABILITY AND FAIRNESS SAFEGUARDS.

Subdivision 1. **Use of licensed, accredited, or certified laboratory required.** (a) An employer who requests or requires an employee or job applicant to undergo drug or alcohol testing or cannabis testing shall use the services of a testing laboratory that meets one of the following criteria for drug testing:

(1) is certified by the National Institute on Drug Abuse as meeting the mandatory guidelines published at 53 Federal Register 11970 to 11989, April 11, 1988;

(2) is accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois, 60093-2750, under the forensic urine drug testing laboratory program; or

(3) is licensed to test for drugs by the state of New York, Department of Health, under Public Health Law, article 5, title V, and rules adopted under that law.

(b) For alcohol testing, the laboratory must either be:

(1) licensed to test for drugs and alcohol by the state of New York, Department of Health, under Public Health Law, article 5, title V, and the rules adopted under that law; or

(2) accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois, 60093-2750, in the laboratory accreditation program.

Subd. 2. [Repealed, 1991 c 60 s 12]

Subd. 3. **Laboratory testing, reporting, and sample retention requirements.** A testing laboratory that is not certified by the National Institute on Drug Abuse according to subdivision 1 shall follow the chain-of-custody procedures prescribed for employers in subdivision 5. A testing laboratory shall conduct a confirmatory test on all samples that produced a positive test result on an initial screening test. A laboratory shall disclose to the employer a written test result report for each sample tested within three working days after a negative test result on an initial screening test or, when the initial screening test produced a positive test result, within three working days after a confirmatory test. A test report must indicate the drugs, alcohol, drug or alcohol metabolites, or cannabis or cannabis metabolites tested for and whether the test produced negative or positive test results. A laboratory shall retain and properly store for at least six months all samples that produced a positive test result.

Subd. 4. **Prohibitions on employers.** An employer may not conduct drug or alcohol testing or cannabis testing of its own employees and job applicants using a testing laboratory owned and operated by the employer; except that, one agency of the state may test the employees of another agency of the state. Except as provided in subdivision 9, an employer may not request or require an employee or job applicant to contribute to, or pay the cost of, drug or alcohol testing or cannabis testing under sections 181.950 to 181.954.

Subd. 5. **Employer chain-of-custody procedures.** An employer shall establish its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures must require the following:

(1) possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;

(2) the sample must always be in the possession of, must always be in view of, or must be placed in a secured area by a person authorized to handle the sample;

(3) a sample must be accompanied by a written chain-of-custody record; and

(4) individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

Subd. 6. **Rights of employees and job applicants.** (a) Before requesting an employee or job applicant to undergo drug or alcohol testing or requesting cannabis testing, an employer shall provide the employee or job applicant with a form, developed by the employer, on which to acknowledge that the employee or job applicant has seen the employer's drug and alcohol testing or cannabis testing policy.

(b) If an employee or job applicant tests positive for drug use, the employee must be given written notice of the right to explain the positive test and the employer may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

(c) Within three working days after notice of a positive test result on a confirmatory test, the employee or job applicant may submit information to the employer, in addition to any information already submitted under paragraph (b), to explain that result, or may request a confirmatory retest of the original sample at the employee's or job applicant's own expense as provided under subdivision 9.

Subd. 7. **Notice of test results.** Within three working days after receipt of a test result report from the testing laboratory, an employer shall inform in writing an employee or job applicant who has undergone drug or alcohol testing or cannabis testing of (1) a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test and (2) the right provided in subdivision 8. In the case of a positive test result on a confirmatory test, the employer shall also, at the time of this notice, inform the employee or job applicant in writing of the rights provided in subdivisions 6, paragraph (b), 9, and either subdivision 10 or 11, whichever applies.

Subd. 8. **Right to test result report.** An employee or job applicant has the right to request and receive from the employer a copy of the test result report on any drug or alcohol test or cannabis test.

Subd. 9. **Confirmatory retests.** An employee or job applicant may request a confirmatory retest of the original sample at the employee's or job applicant's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the employee or job applicant shall notify the employer in writing of the employee's or job applicant's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the employer shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct the confirmatory retest or transfer the sample to another laboratory licensed under subdivision 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that the chain-of-custody procedures in subdivision 3 are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug, alcohol, or cannabis threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.

[See Note.]

Subd. 10. **Limitations on employee discharge, discipline, or discrimination.** (a) An employer may not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

(b) In addition to the limitation under paragraph (a), an employer may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test or cannabis test requested by the employer unless the following conditions have been met:

(1) the employer has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug, alcohol, or cannabis counseling or rehabilitation program, whichever is more appropriate, as determined by the employer after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of substance use disorder; and

(2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.

(c) Notwithstanding paragraph (a), an employer may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the employer believes that it is reasonably necessary to protect the health or safety of the employee, coemployees, or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

(d) An employer may not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of medical history information revealed to the employer pursuant to subdivision 6 unless the employee was under an affirmative duty to provide the information before, upon, or after hire.

(e) An employee must be given access to information in the employee's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process or cannabis testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

[See Note.]

Subd. 10a. **Additional limitations for cannabis.** An employer may discipline, discharge, or take other adverse personnel action against an employee for cannabis flower, cannabis product, lower-potency hemp edible, or hemp-derived consumer product use, possession, impairment, sale, or transfer while an employee is working, on the employer's premises, or operating the employer's vehicle, machinery, or equipment as follows:

(1) if, as the result of consuming cannabis flower, a cannabis product, a lower-potency hemp edible, or a hemp-derived consumer product, the employee does not possess that clearness of intellect and control of self that the employee otherwise would have;

(2) if cannabis testing verifies the presence of cannabis flower, a cannabis product, a lower-potency hemp edible, or a hemp-derived consumer product following a confirmatory test;

(3) as provided in the employer's written work rules for cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products and cannabis testing, provided that the rules are in writing and in a written policy that contains the minimum information required by section 181.952; or

(4) as otherwise authorized or required under state or federal law or regulations, or if a failure to do so would cause an employer to lose a monetary or licensing-related benefit under federal law or regulations.

Subd. 11. **Limitation on withdrawal of job offer.** If a job applicant has received a job offer made contingent on the applicant passing drug and alcohol testing, the employer may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test.

History: *1987 c 384 art 3 s 32; 1987 c 388 s 4; 1988 c 536 s 2,3; 1991 c 60 s 6-9; 1997 c 180 s 2; 2004 c 228 art 1 s 32; 2022 c 98 art 4 s 51; 2023 c 63 art 6 s 39*

NOTE: Subdivision 9 was found preempted by the federal Labor Management Relations Act as applied to collective bargaining agreements in *Visnovec v. Yellow Freight System, Inc.*, 754 F.Supp. 142 (D. Minn. 1990).

NOTE: Subdivision 10 was found preempted as applied to the physical qualifications for federal motor carrier drivers by federal motor carrier safety regulations in *Visnovec v. Yellow Freight System, Inc.*, 754 F.Supp. 142 (D. Minn. 1990).

181.951 AUTHORIZED DRUG AND ALCOHOL TESTING.

Subdivision 1. **Limitations on testing.** (a) An employer may not request or require an employee or job applicant to undergo drug and alcohol testing except as authorized in this section.

(b) An employer may not request or require an employee or job applicant to undergo drug or alcohol testing unless the testing is done pursuant to a written drug and alcohol testing policy that contains the minimum information required in section 181.952; and, is conducted by a testing laboratory which participates in one of the programs listed in section 181.953, subdivision 1.

(c) An employer may not request or require an employee or job applicant to undergo drug and alcohol testing on an arbitrary and capricious basis.

Subd. 2. **Job applicant testing.** An employer may request or require a job applicant to undergo drug and alcohol testing provided a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position. If the job offer is withdrawn, as provided in section 181.953, subdivision 11, the employer shall inform the job applicant of the reason for its action.

Subd. 3. **Routine physical examination testing.** An employer may request or require an employee to undergo drug and alcohol testing as part of a routine physical examination provided the drug or alcohol test is requested or required no more than once annually and the employee has been given at least two weeks' written notice that a drug or alcohol test may be requested or required as part of the physical examination.

Subd. 4. **Random testing.** An employer may request or require employees to undergo cannabis testing or drug and alcohol testing on a random selection basis only if (1) they are employed in safety-sensitive positions, or (2) they are employed as professional athletes if the professional athlete is subject to a collective bargaining agreement permitting random testing but only to the extent consistent with the collective bargaining agreement.

Subd. 5. **Reasonable suspicion testing.** An employer may request or require an employee to undergo cannabis testing and drug and alcohol testing if the employer has a reasonable suspicion that the employee:

(1) is under the influence of drugs or alcohol;

(2) has violated the employer's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products while the employee is working or while the employee is on the employer's premises or operating the employer's vehicle, machinery, or equipment, provided the work rules are in writing and contained in the employer's written cannabis testing or drug and alcohol testing policy;

(3) has sustained a personal injury, as that term is defined in section 176.011, subdivision 16, or has caused another employee to sustain a personal injury; or

(4) has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Subd. 6. **Treatment program testing.** An employer may request or require an employee to undergo cannabis testing and drug and alcohol testing if the employee has been referred by the employer for substance use disorder treatment or evaluation or is participating in a substance use disorder treatment program under an employee benefit plan, in which case the employee may be requested or required to undergo cannabis

testing and drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed substance use disorder treatment program.

Subd. 7. **No legal duty to test.** Employers do not have a legal duty to request or require an employee or job applicant to undergo drug or alcohol testing as authorized in this section.

Subd. 8. **Limitations on cannabis testing.** (a) An employer must not request or require a job applicant to undergo cannabis testing solely for the purpose of determining the presence or absence of cannabis as a condition of employment unless otherwise required by state or federal law.

(b) Unless otherwise required by state or federal law, an employer must not refuse to hire a job applicant solely because the job applicant submits to a cannabis test or a drug and alcohol test authorized by this section and the results of the test indicate the presence of cannabis.

(c) An employer must not request or require an employee or job applicant to undergo cannabis testing on an arbitrary or capricious basis.

(d) Cannabis testing authorized under paragraph (d) must comply with the safeguards for testing employees provided in sections 181.953 and 181.954.

Subd. 9. **Cannabis testing exceptions.** For the following positions, cannabis and its metabolites are considered a drug and subject to the drug and alcohol testing provisions in sections 181.950 to 181.957:

(1) a safety-sensitive position, as defined in section 181.950, subdivision 13;

(2) a peace officer position, as defined in section 626.84, subdivision 1;

(3) a firefighter position, as defined in section 299N.01, subdivision 3;

(4) a position requiring face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to:

(i) children;

(ii) vulnerable adults, as defined in section 626.5572, subdivision 21; or

(iii) patients who receive health care services from a provider for the treatment, examination, or emergency care of a medical, psychiatric, or mental condition;

(5) a position requiring a commercial driver's license or requiring an employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing of a job applicant or an employee;

(6) a position of employment funded by a federal grant; or

(7) any other position for which state or federal law requires testing of a job applicant or an employee for cannabis.

History: *1987 c 388 s 2; 1988 c 536 s 1; 1991 c 60 s 5; 2005 c 133 s 1; 2022 c 98 art 4 s 51; 2023 c 63 art 6 s 33-37*

152.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 3. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 3. **Administer.** "Administer" means to deliver by, or pursuant to the lawful order of a practitioner a single dose of a controlled substance to a patient or research subject by injection, inhalation, ingestion, or by any other immediate means.

Subd. 3a. **Cocaine.** "Cocaine" means coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of those substances, except decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Subd. 4. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 4. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 5. [Repealed, 1971 c 937 s 22]

Subd. 5a. **Hallucinogen.** "Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, paragraph (d), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.

Subd. 6. **Pharmacist intern.** The term "pharmacist intern" means a natural person, a graduate of the College of Pharmacy, University of Minnesota, or other pharmacy college, approved by the board, or a person satisfactorily progressing toward the degree in pharmacy required for licensure, registered by the state Board of Pharmacy, for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist or a qualified applicant, awaiting licensure.

Subd. 7. **Manufacture.** "Manufacture," in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Subd. 8. **Dispense.** "Dispense" means to deliver one or more doses of a controlled substance in a suitable container, properly labeled, for subsequent administration to, or use by a patient or research subject.

Subd. 9. **Marijuana.** (a) "Marijuana" means:

(1) cannabis plants;

(2) cannabis flower;

(3) cannabis concentrate;

(4) cannabis products;

(5) cannabis seed; or

(6) a mixture containing any tetrahydrocannabinol or artificially derived cannabinoid in a concentration that exceeds 0.3 percent as measured by weight.

(b) Marijuana does not include:

(1) the mature stalks of a cannabis plant;

(2) fiber from such stalks;

(3) any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake;

(4) oil or cake made from the seeds of a cannabis plant;

(5) the sterilized seed of a cannabis plant which is incapable of germination; or

(6) industrial hemp as defined in section 18K.02, subdivision 3.

Subd. 9a. **Mixture.** "Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity except as provided in subdivision 16; sections 152.021, subdivision 2, paragraph (b); 152.022, subdivision 2, paragraph (b); and 152.023, subdivision 2, paragraph (b).

Subd. 10. **Narcotic drug.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, coca leaves, opiates, and methamphetamine;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, opiates, or methamphetamine;

(3) a substance, and any compound, manufacture, salt, derivative, or preparation thereof, which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

Subd. 11. **Opiate.** "Opiate" means any dangerous substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability.

Subd. 12. **Opium poppy.** "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

Subd. 12a. **Park zone.** "Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, a park and recreation board in a city of the first class, or a federally recognized Indian Tribe. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.

Subd. 13. **Person.** "Person" includes every individual, copartnership, corporation or association of one or more individuals.

Subd. 14. **Poppy straw.** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

Subd. 14a. **School zone.** "School zone" means:

(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123B.41, subdivision 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;

(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Subd. 15. **Immediate precursor.** "Immediate precursor" means a substance which the state Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Subd. 15a. **Sell.** "Sell" means:

(1) to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or

(2) to offer or agree to perform an act listed in clause (1); or

(3) to possess with intent to perform an act listed in clause (1).

Subd. 16. **Small amount.** "Small amount" as applied to marijuana means 42.5 grams or less. This provision shall not apply to the resinous form of marijuana. The weight of fluid used in a water pipe may not be considered in determining a small amount except in cases where the marijuana is mixed with four or more fluid ounces of fluid.

Subd. 16a. **Subsequent controlled substance conviction.** A "subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted of a violation of section 152.021 or 152.022, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state, provided that ten years have not elapsed since discharge from sentence.

Subd. 17. [Repealed, 1994 c 636 art 2 s 69]

Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, or (3) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of: (1) hypodermic syringes or needles or any instrument or implement which can be adapted for subcutaneous injections; or (2) products that detect the presence of fentanyl or a fentanyl analog in a controlled substance.

Subd. 19. **Public housing zone.** "Public housing zone" means any public housing project or development administered by a local housing agency, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.

Subd. 20. **Unlawfully.** "Unlawfully" means selling or possessing a controlled substance in a manner not authorized by law.

Subd. 21. **Orphan drug.** "Orphan drug" means a drug for a disease or condition which is rare in the United States and has been designated as an orphan drug by the Secretary of Health and Human Services as provided in the Orphan Drug Act, Public Law 92-414, as amended.

Subd. 22. **Drug treatment facility.** "Drug treatment facility" means any facility in which a residential rehabilitation program licensed under chapter 245G or Minnesota Rules, parts 9530.6510 to 9530.6590, is located, and includes any property owned, leased, or controlled by the facility.

Subd. 23. **Analog.** (a) Except as provided in paragraph (b), "analog" means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

(1) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(2) with respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) "Analog" does not include:

(1) a controlled substance;

(2) any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act; or

(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

Subd. 24. **Aggravating factor.** Each of the following is an "aggravating factor":

(1) the defendant, within the previous ten years, has been convicted of a violent crime, as defined in section 609.1095, subdivision 1, paragraph (d), other than a violation of a provision under this chapter, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state;

(2) the offense was committed for the benefit of a gang under section 609.229;

(3) the offense involved separate acts of sale or possession of a controlled substance in three or more counties;

(4) the offense involved the transfer of controlled substances across a state or international border and into Minnesota;

(5) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to sell or transfer;

(6) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(7) the defendant used a position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships;

(8) the offense involved the sale of a controlled substance to a person under the age of 18 or a vulnerable adult as defined in section 609.232, subdivision 11;

(9) the defendant or an accomplice manufactured, possessed, or sold a controlled substance in a school zone, park zone, correctional facility, or drug treatment facility; or

(10) the defendant or an accomplice possessed equipment, drug paraphernalia, documents, or money evidencing that the offense involved the cultivation, manufacture, distribution, or possession of controlled substances in quantities substantially larger than the minimum threshold amount for the offense.

Subd. 25. **Fentanyl.** As used in sections 152.021 to 152.025, "fentanyl" includes fentanyl, carfentanil, and any fentanyl analogs and fentanyl-related substances listed in section 152.02, subdivisions 2 and 3.

Subd. 26. **Artificially derived cannabinoid.** "Artificially derived cannabinoid" has the meaning given in section 342.01, subdivision 6.

Subd. 27. **Cannabis concentrate.** "Cannabis concentrate" has the meaning given in section 342.01, subdivision 15.

Subd. 28. **Cannabis flower.** "Cannabis flower" has the meaning given in section 342.01, subdivision 16.

Subd. 29. **Cannabis plant.** "Cannabis plant" has the meaning given in section 342.01, subdivision 19.

Subd. 30. **Cannabis product.** "Cannabis product" has the meaning given in section 342.01, subdivision 20.

Subd. 31. **Edible cannabis product.** "Edible cannabis product" has the meaning given in section 342.01, subdivision 31.

Subd. 32. **Hemp-derived consumer product.** "Hemp-derived consumer product" has the meaning given in section 342.01, subdivision 37.

Subd. 33. **Lower-potency hemp edible.** "Lower-potency hemp edible" has the meaning given in section 342.01, subdivision 50.

History: *(3899-2, 3899-5, 3899-7, 3906-12) 1921 c 190 s 2,5,7; 1939 c 102 s 2; 1967 c 408 s 1,2; 1971 c 937 s 1-11; Ex1971 c 38 s 1; Ex1971 c 48 s 17; 1973 c 693 s 1; 1979 c 157 s 1; 1981 c 37 s 2; 1981 c 295 s 1; 1982 c 557 s 1; 1982 c 642 s 22; 1985 c 248 s 70; 1986 c 444; 1987 c 298 s 1; 1989 c 290 art 3 s 1-7;*

1991 c 279 s 1,2; 1992 c 359 s 1-3; 1993 c 82 s 1; 1997 c 239 art 4 s 1,2; 1998 c 397 art 11 s 3; 1999 c 98 s 1; 2005 c 136 art 7 s 2; 2011 c 53 s 1-3; 2013 c 113 art 3 s 1; 2016 c 160 s 1,2; 2018 c 182 art 2 s 4; 1Sp2019 c 9 art 11 s 77; 1Sp2021 c 11 art 2 s 1; 2023 c 52 art 15 s 5-7; 2023 c 63 art 4 s 2-9; art 6 s 12

176.011 DEFINITIONS.

Subd. 16. **Personal injury.** "Personal injury" means any mental impairment as defined in subdivision 15, paragraph (d), or physical injury arising out of and in the course of employment and includes personal injury caused by occupational disease; but does not cover an employee except while engaged in, on, or about the premises where the employee's services require the employee's presence as a part of that service at the time of the injury and during the hours of that service. Where the employer regularly furnished transportation to employees to and from the place of employment, those employees are subject to this chapter while being so transported. Physical stimulus resulting in mental injury and mental stimulus resulting in physical injury shall remain compensable. Mental impairment is not considered a personal injury if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer. Personal injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of personal reasons, and not directed against the employee as an employee, or because of the employment. An injury or disease resulting from a vaccine in response to a declaration by the Secretary of the United States Department of Health and Human Services under the Public Health Service Act to address an actual or potential health risk related to the employee's employment is an injury or disease arising out of and in the course of employment.

363A.03 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. **Age.** The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

Subd. 3. **Board.** "Board" means the state Board of Human Rights.

Subd. 4. **Business.** The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

Subd. 5. **Charging party.** "Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section 363A.28, subdivision 1.

Subd. 6. **Closed case file.** "Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human rights.

Subd. 8. **Complainant.** "Complainant" means the commissioner of human rights after issuing a complaint pursuant to sections 363A.06, subdivision 3, paragraph (8), and 363A.28, subdivisions 1 to 9.

Subd. 9. **Confidential, private, and public data on individuals and protected nonpublic data not on individuals.** "Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota Government Data Practices Act.

Subd. 10. **Demand responsive system.** "Demand responsive system" means a system of providing public transportation that is not a fixed route system.

Subd. 11. **Department.** "Department" means the Department of Human Rights.

Subd. 12. **Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Subd. 13. **Discriminate.** The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.

Subd. 14. **Educational institution.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.

Subd. 15. **Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

Subd. 16. **Employer.** "Employer" means a person who has one or more employees.

Subd. 17. **Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 18. **Familial status.** "Familial status" means the condition of one or more minors being domiciled with (1) their parent or parents or the minor's legal guardian or (2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

Subd. 19. **Fixed route system.** "Fixed route system" means a system of providing public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

Subd. 20. **Historic or antiquated rail passenger car.** "Historic or antiquated rail passenger car" means a rail passenger car:

(1) that is at least 30 years old at the time of its use for transporting individuals;

(2) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; or

(3) that has consequential association with events or persons significant to the past or embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past or to represent a time period that has passed.

Subd. 21. **Human rights investigative data.** "Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

Subd. 22. **Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

(1) collective bargaining;

(2) dealing with employers concerning grievances, terms or conditions of employment; or

(3) mutual aid or protection of employees.

Subd. 23. **Local commission.** "Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, gender identity, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

Subd. 24. **Marital status.** "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Subd. 25. **National origin.** "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

Subd. 26. **Open case file.** "Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

Subd. 27. **Operates.** "Operates," when used with respect to a demand responsive or fixed route system, includes the operation of the system by a person under a contractual or other arrangement or relationship with a public or private entity.

Subd. 28. **Over-the-road bus.** "Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

Subd. 29. **Party in interest.** "Party in interest" means the complainant, respondent, commissioner or board member.

Subd. 30. **Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 31. **Physical access.** "Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

Subd. 32. **Private entity.** "Private entity" means an entity other than a public service.

Subd. 33. **Program access.** "Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

Subd. 34. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 35. **Public service.** "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Subd. 36. **Qualified disabled person.** "Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

Subd. 36a. **Race.** "Race" is inclusive of traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists.

Subd. 37. **Rail passenger car.** "Rail passenger car" means, with respect to intercity or commuter rail transportation, single- and bi-level coach cars, dining cars, sleeping cars, lounge cars, restroom cars, and food service cars.

Subd. 38. **Real estate broker or salesperson.** "Real estate broker or salesperson" means, respectively, a real estate broker as defined by section 82.55, subdivision 19, and a real estate salesperson as defined by section 82.55, subdivision 20.

Subd. 39. **Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 40. **Religious or denominational educational institution.** "Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

Subd. 41. **Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

Subd. 42. **Sex.** "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

Subd. 43. **Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Subd. 44. **Sexual orientation.** "Sexual orientation" means to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be

attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

Subd. 45. **Specified public transportation.** "Specified public transportation" means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Subd. 46. **Station.** "Station" means property located next to a right-of-way on which intercity and commuter transportation is operated, which is used by the general public and is related to the provision of the transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, drinking fountains, public telephones, and, if a public service providing rail transportation owns the property, concessions areas to the extent that the public service exercises control over the selection, design, construction, or alteration of the property. Station does not include flag stops.

Subd. 47. **Status with regard to public assistance.** "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

Subd. 48. **Unfair discriminatory practice.** "Unfair discriminatory practice" means any act described in sections 363A.08 to 363A.19 and 363A.28, subdivision 10.

Subd. 49. **Vehicle.** "Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.

Subd. 50. **Gender identity.** "Gender identity" means a person's inherent sense of being a man, woman, both, or neither. A person's gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics. A person's gender identity is not necessarily visible to others.

History: *1955 c 516 s 3; 1961 c 428 s 1-3; 1967 c 897 s 1-9; 1969 c 975 s 1,2; 1973 c 123 art 5 s 7; 1973 c 729 s 1; 1976 c 2 s 130; 1977 c 351 s 1; 1977 c 408 s 1; 1980 c 531 s 1,2; 1982 c 492 s 1; 1982 c 619 s 2,3; 1983 c 276 s 1-4; 1Sp1985 c 13 s 320-324; 1986 c 444; 1987 c 23 s 1; 1987 c 282 s 2; 1988 c 660 s 1; 1989 c 144 art 2 s 8; 1989 c 280 s 1-3; 1989 c 329 art 9 s 26; 1989 c 335 art 1 s 243; 1989 c 356 s 18; 1990 c 567 s 1,10; 1992 c 527 s 1-10; 1993 c 22 s 1,2; 1993 c 277 s 1-4; 1994 c 465 art 3 s 20; 2001 c 194 s 1; 2004 c 203 art 2 s 61; 2023 c 3 s 1; 2023 c 52 art 19 s 46-48*

152.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 3. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 3. **Administer.** "Administer" means to deliver by, or pursuant to the lawful order of a practitioner a single dose of a controlled substance to a patient or research subject by injection, inhalation, ingestion, or by any other immediate means.

Subd. 3a. **Cocaine.** "Cocaine" means coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of those substances, except decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Subd. 4. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 4. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, or (3) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of: (1) hypodermic syringes or needles or any instrument or implement which can be adapted for subcutaneous injections; or (2) products that detect the presence of fentanyl or a fentanyl analog in a controlled substance.

13.43 PERSONNEL DATA.

Subdivision 1. **Definition.** As used in this section, "personnel data" means government data on individuals maintained because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a government entity.

Subd. 2. **Public data.** (a) Except for employees described in subdivision 5 and subject to the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a government entity is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the complete terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than $10,000 of public money;

(7) work location; a work telephone number; badge number; work-related continuing education; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

(b) For purposes of this subdivision, a final disposition occurs when the government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the government entity, or arbitrator. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. A disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

(c) The government entity may display a photograph of a current or former employee to a prospective witness as part of the government entity's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a government entity in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), and subject to paragraph (f), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers;

(3) executive or administrative heads of departments, bureaus, divisions, or institutions within state government; and

(4) the following employees:

(i) the chief administrative officer, or the individual acting in an equivalent position, in all political subdivisions;

(ii) individuals required to be identified by a political subdivision pursuant to section 471.701;

(iii) in a city with a population of more than 7,500 or a county with a population of more than 5,000: managers; chiefs; heads or directors of departments, divisions, bureaus, or boards; and any equivalent position; and

(iv) in a school district: business managers; human resource directors; athletic directors whose duties include at least 50 percent of their time spent in administration, personnel, supervision, and evaluation; chief financial officers; directors; individuals defined as superintendents and principals under Minnesota Rules, part 3512.0100; and in a charter school, individuals employed in comparable positions.

(f) Data relating to a complaint or charge against an employee identified under paragraph (e), clause (4), are public only if:

(1) the complaint or charge results in disciplinary action or the employee resigns or is terminated from employment while the complaint or charge is pending; or

(2) potential legal claims arising out of the conduct that is the subject of the complaint or charge are released as part of a settlement agreement.

This paragraph and paragraph (e) do not authorize the release of data that are made not public under other law.

Subd. 2a. **Data disclosure by statewide pension plans.** Notwithstanding any law to the contrary, with respect to data collected and maintained on members, survivors, and beneficiaries by statewide retirement systems that is classified as public data in accordance with subdivision 2, those retirement systems may be only required to disclose name, gross pension, and type of benefit awarded, except as required by sections 13.03, subdivisions 4 and 6; and 13.05, subdivisions 4 and 9.

Subd. 3. **Applicant data.** Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a government entity is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of

this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

Subd. 4. **Other data.** All other personnel data is private data on individuals but may be released pursuant to a court order. Data pertaining to an employee's dependents are private data on individuals.

Subd. 5. **Undercover law enforcement officer.** All personnel data maintained by a government entity relating to an individual employed as or an applicant for employment as an undercover law enforcement officer are private data on individuals. When the individual is no longer assigned to an undercover position, the data described in subdivisions 2 and 3 become public unless the law enforcement agency determines that revealing the data would threaten the personal safety of the officer or jeopardize an active investigation.

Subd. 5a. **Limitation on disclosure of certain personnel data.** Notwithstanding any other provision of this section, the following data relating to employees of a secure treatment facility defined in section 253B.02, subdivision 18a, employees of a state correctional facility, or employees of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals who facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any of these employees: place where previous education or training occurred; place of prior employment; and payroll timesheets or other comparable data, to the extent that disclosure of payroll timesheets or other comparable data may disclose future work assignments, home address or telephone number, the location of an employee during nonwork hours, or the location of an employee's immediate family members.

Subd. 6. **Access by labor organizations, Bureau of Mediation Services, Public Employment Relations Board.** (a) Personnel data must be disseminated to labor organizations and the Public Employment Relations Board to the extent necessary to conduct elections, investigate and process grievances, and implement the provisions of chapters 179 and 179A. Personnel data shall be disseminated to labor organizations, the Public Employment Relations Board, and the Bureau of Mediation Services to the extent the dissemination is ordered or authorized by the commissioner of the Bureau of Mediation Services or the Public Employment Relations Board or its employees or agents. Employee Social Security numbers are not necessary to implement the provisions of chapters 179 and 179A.

(b) Personnel data described under section 179A.07, subdivision 8, must be disseminated to an exclusive representative under the terms of that subdivision.

(c) An employer who disseminates personnel data to a labor organization pursuant to this subdivision shall not be subject to liability under section 13.08. Nothing in this paragraph shall impair or limit any remedies available under section 325E.61.

(d) The home addresses, nonemployer issued phone numbers and email addresses, dates of birth, and emails or other communications between exclusive representatives and their members, prospective members, and nonmembers are private data on individuals.

Subd. 7. **Employee assistance data.** All data created, collected or maintained by a government entity to administer employee assistance programs similar to the one authorized by section 43A.319 are classified as private, pursuant to section 13.02, subdivision 12. This section shall not be interpreted to authorize the establishment of employee assistance programs.

Subd. 7a. **Employee suggestion data.** Personnel data includes data submitted by an employee to a government entity as part of an organized self-evaluation effort by the government entity to request suggestions from all employees on ways to cut costs, make government more efficient, or improve the operation of

government. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

Subd. 8. **Harassment data.** When allegations of sexual or other types of harassment are made against an employee, the employee does not have access to data that would identify the complainant or other witnesses if the responsible authority determines that the employee's access to that data would:

(1) threaten the personal safety of the complainant or a witness; or

(2) subject the complainant or witness to harassment.

If a disciplinary proceeding is initiated against the employee, data on the complainant or witness shall be available to the employee as may be necessary for the employee to prepare for the proceeding.

Subd. 9. **Peer counseling data.** (a) Data acquired by a peer support counselor when providing public safety peer counseling are governed by section 181.9731.

(b) For purposes of this subdivision:

(1) "peer support counselor" has the meaning given in section 181.9731, subdivision 1, paragraph (c); and

(2) "public safety peer counseling" has the meaning given in section 181.9731, subdivision 1, paragraph (d).

Subd. 9a. **Critical incident stress management data.** (a) Data acquired by a critical incident stress management team member when providing critical incident stress management services are governed by section 181.9732.

(b) For purposes of this subdivision:

(1) "critical incident stress management services" has the meaning given in section 181.9732, subdivision 1, paragraph (c); and

(2) "critical incident stress management team member" has the meaning given in section 181.9732, subdivision 1, paragraph (e).

Subd. 10. **Prohibition on agreements limiting disclosure or discussion of personnel data.** (a) A government entity may not enter into an agreement settling a dispute arising out of the employment relationship with the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data. An agreement or portion of an agreement that violates this paragraph is void and unenforceable.

(b) Paragraph (a) applies to the following, but only to the extent that the data or information could otherwise be made accessible to the public:

(1) an agreement not to discuss, publicize, or comment on personnel data or information;

(2) an agreement that limits the ability of the subject of personnel data to release or consent to the release of data; or

(3) any other provision of an agreement that has the effect of limiting the disclosure or discussion of information that could otherwise be made accessible to the public, except a provision that limits the ability of an employee to release or discuss private data that identifies other employees.

(c) Paragraph (a) also applies to a court order that contains terms or conditions prohibited by paragraph (a).

Subd. 11. **Protection of employee or others.** (a) If the responsible authority or designee of a government entity reasonably determines that the release of personnel data is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, data that are relevant to the concerns for safety may be released as provided in this subdivision.

(b) The data may be released:

(1) to the person who may be harmed and to an attorney representing the person when the data are relevant to obtaining a restraining order;

(2) to a prepetition screening team conducting an investigation of the employee under section 253B.07, subdivision 1; or

(3) to a court, law enforcement agency, or prosecuting authority.

(c) Section 13.03, subdivision 4, paragraph (c), applies to data released under this subdivision, except to the extent that the data have a more restrictive classification in the possession of the agency or authority that receives the data. If the person who may be harmed or the person's attorney receives data under this subdivision, the data may be used or released further only to the extent necessary to protect the person from harm.

Subd. 12. **Sharing of law enforcement personnel background investigation data.** A law enforcement agency shall share data from a background investigation done under section 626.87 with the Peace Officer Standards and Training Board or with a law enforcement agency doing an investigation of the subject of the data under section 626.87.

Subd. 13. **Dissemination of data to Department of Employment and Economic Development.** Private personnel data must be disclosed to the Department of Employment and Economic Development for the purpose of administration of the unemployment benefits program under chapter 268.

Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student in a school facility, as defined in section 260E.03, subdivision 6, is made to the commissioner of education under chapter 260E, data that are relevant to a report of maltreatment and are collected by the school facility about the person alleged to have committed maltreatment must be provided to the commissioner of education upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of education pursuant to these assessments or investigations are classified under chapter 260E.

(b) Personnel data may be released for purposes of providing information to a parent, legal guardian, or custodian of a child under section 260E.15.

Subd. 15. **Dissemination of data to law enforcement.** Private personnel data, or data on employees that are confidential data under section 13.39, may be disseminated to a law enforcement agency for the purpose of reporting a crime or alleged crime committed by an employee, or for the purpose of assisting law enforcement in the investigation of a crime committed or allegedly committed by an employee.

Subd. 16. **School district or charter school disclosure of violence or inappropriate sexual contact.** The superintendent of a school district or the superintendent's designee, or a person having administrative control of a charter school, must release to a requesting school district or charter school private personnel data on a current or former employee related to acts of violence toward or sexual contact with a student, if:

(1) an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data; or

(2) the employee resigned while a complaint or charge involving the allegations was pending, the allegations involved acts of sexual contact with a student, and the employer informed the employee in writing, before the employee resigned, that if the employee resigns while the complaint or charge is still pending, the employer must release private personnel data about the employee's alleged sexual contact with a student to a school district or charter school requesting the data after the employee applies for employment with that school district or charter school and the data remain classified as provided in chapter 13.

Data that are released under this subdivision must not include data on the student.

Subd. 17. **Continuity of operations.** Personal home contact information may be used to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of operation of a government entity. An employee's personal home contact information may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation of either government entity.

Subd. 18. **Private personnel data.** Private personnel data of state employees must be disclosed to the Department of Administration for the purpose of administration of the workers' compensation program as provided in chapter 176.

Subd. 19. **Employee of contractor or subcontractor.** The following data maintained as a result of a contractual relationship entered on or after August 1, 2012, between a government entity and a contractor or subcontractor are private: the personal telephone number, home address, and email address of a current or former employee of the contractor or subcontractor. A government entity maintaining data under this subdivision must share the data with another government entity to perform a function authorized by law. The data must be disclosed to a government entity or any person for prevailing wage purposes.

History: *1979 c 328 s 17; 1980 c 603 s 24,25,29; 1981 c 311 s 12,13,17,39; 1982 c 545 s 9,10,24; 1984 c 436 s 17; 1984 c 544 s 89; 1985 c 298 s 12; 1987 c 186 s 15; 1987 c 284 art 1 s 1; 1987 c 351 s 7; 1987 c 384 art 1 s 2; 1988 c 598 s 1; 1990 c 550 s 1; 1991 c 319 s 4-6; 1993 c 351 s 6,7; 1994 c 618 art 1 s 9; 1995 c 259 art 1 s 7-9; 1Sp1995 c 3 art 9 s 1; 1996 c 440 art 1 s 10-12; 1997 c 214 s 2; 1998 c 397 art 11 s 3; 1999 c 107 s 66; 1999 c 182 s 1; 1999 c 227 s 6; 1999 c 250 art 1 s 114; 2000 c 343 s 4; 2001 c 70 s 1; 2001 c 178 art 2 s 3; 2002 c 243 s 1; 2002 c 352 s 6; 2002 c 396 s 1; 2003 c 130 s 12; 1Sp2003 c 8 art 2 s 8; 2004 c 137 s 1; 2004 c 206 s 52; 2004 c 288 art 3 s 1,2; 2004 c 290 s 4,5; 2005 c 163 s 37-39; 2007 c 129 s 23-28; 2009 c 142 art 1 s 1,2; 2010 c 365 art 1 s 3,4; 2012 c 280 s 1; 2012 c 290 s 21-23; 2013 c 82 s 4,5; 2014 c 312 art 16 s 1; 2015 c 71 art 1 s 126; 1Sp2020 c 2 art 8 s 3; 2Sp2020 c 1 s 1,2; 2023 c 53 art 8 s 1; art 11 s 1*

181.172 WAGE DISCLOSURE PROTECTION.

(a) An employer shall not:

(1) require nondisclosure by an employee of his or her wages as a condition of employment;

(2) require an employee to sign a waiver or other document which purports to deny an employee the right to disclose the employee's wages; or

(3) take any adverse employment action against an employee for disclosing the employee's own wages or discussing another employee's wages which have been disclosed voluntarily.

(b) Nothing in this section shall be construed to:

(1) create an obligation on any employer or employee to disclose wages;

(2) permit an employee, without the written consent of the employer, to disclose proprietary information, trade secret information, or information that is otherwise subject to a legal privilege or protected by law;

(3) diminish any existing rights under the National Labor Relations Act under United States Code, title 29; or

(4) permit the employee to disclose wage information of other employees to a competitor of their employer.

(c) An employer that provides an employee handbook to its employees must include in the handbook notice of employee rights and remedies under this section.

(d) An employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for asserting rights or remedies under this section.

(e) An employee may bring a civil action against an employer for a violation of paragraph (a) or (d). If a court finds that an employer has violated paragraph (a) or (d), the court may order reinstatement, back pay, restoration of lost service credit, if appropriate, and the expungement of any related adverse records of an employee who was the subject of the violation.

History: *2014 c 239 art 4 s 2; 2023 c 53 art 11 s 23*

RESOLUTION #05-04

RESOLUTION REQUIRING DIRECT DEPOSIT FOR EMPLOYEES

WHEREAS Minnesota Statutes, 471.426, authorize the governing body of a municipality to require employees who are paid through the payroll system to use direct deposit; and,

WHEREAS there are advantages, as well as additional security of the city's and employees funds,

NOWTHEREFORE BE IT RESOLVED by the Milaca City Council that the City Council hereby requires direct deposit for all city employees who are paid through the payroll system. Be it further Resolved that the council hereby directs that this be effective in the first full pay period following approval of this Resolution, and the City Manager and City Treasurer are authorized to sign agreements and obtain the information to make direct deposit effective.

Adopted this 20th day of January, 2005.

Mayor Randy Furman

ATTEST

Greg Lerud, City Manager

LONGEVITY SCHEDULE

Name	Hire Date	Hire Year	1% 5 Years	1% 10 Years	1.25% 15 Years	1.25% 20 Years	1.25% 25 Years	1.50% 30 Years	1.50% 35 Years	2% 40 Years
Katke, Deloris	9/1/1988	1988	1993	1998	2003	2008	2013	2018	2023	2028
Jeys, Vicki	3/24/2003	2003	2008	2013	2018	2023	2028	2033	2038	2043
Steffel, Laurie	8/29/2007	2007	2012	2017	2022	2027	2032	2037	2042	2047
Hansen, Mari	6/21/2012	2012	2017	2022	2027	2032	2037	2042	2047	2052
Edel, Amy	4/19/2013	2013	2018	2023	2028	2033	2038	2043	2048	2053
Johnson, Warne	11/5/2015	2015	2020	2025	2030	2035	2040	2045	2050	2055
Oldenburg, John	11/23/2015	2015	2020	2025	2030	2035	2040	2045	2050	2055
Rasmussen, Quinn	4/14/2015	2015	2020	2025	2030	2035	2040	2045	2050	2055
Stevenson, Dave	5/13/2016	2016	2021	2026	2031	2036	2041	2046	2051	2056
Pfaff, Tammy	5/1/2017	2017	2022	2027	2032	2037	2042	2047	2052	2057
Wubben, Mark	5/9/2017	2017	2022	2027	2032	2037	2042	2047	2052	2057
Kirkeby, Gary	9/25/2017	2017	2022	2027	2032	2037	2042	2047	2052	2057
Cain, Amy	3/12/2019	2019	2024	2029	2034	2039	2044	2049	2054	2059
Mickelson, Mary	9/23/2019	2019	2024	2029	2034	2039	2044	2049	2054	2059
Vanthof, Anthony	11/21/2019	2019	2024	2029	2034	2039	2044	2049	2054	2059
Roelofs, Troy	6/29/2020	2020	2025	2030	2035	2040	2045	2050	2055	2060
Shockley, Wallace	8/24/2020	2020	2025	2030	2035	2040	2045	2050	2055	2060
Wiener, Audra	5/24/2021	2021	2026	2031	2036	2041	2046	2051	2056	2061
Eli, Vernette	1/17/2022	2022	2027	2032	2037	2042	2047	2052	2057	2062
Niedzielski, MaryBeth	1/31/2022	2022	2027	2032	2037	2042	2047	2052	2057	2062
Pelarski, Zachariah	4/25/2022	2022	2027	2032	2037	2042	2047	2052	2057	2062
Grose, Matthew	5/31/2022	2022	2027	2032	2037	2042	2047	2052	2057	2062
David, Julie	7/5/2022	2022	2027	2032	2037	2042	2047	2052	2057	2062
Nealley, Elizabeth	2/13/2023	2023	2028	2033	2038	2043	2048	2053	2058	2063
Tolmie, Myla	8/7/2023	2023	2028	2033	2038	2043	2048	2053	2058	2063
Runyon-Martinson, Holly	4/4/2024	2024	2029	2034	2039	2044	2049	2054	2059	2064

CITY OF MILACA

RESOLUTION 85 - 26

RESOLUTION DESIGNATING MARTIN LUTHER KINGS OBSERVED BIRTHDAY AS A PAID HOLIDAY

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA THAT:

The City of Milaca, Minnesota hereby designates the third Monday in January as a legal holiday as stated in M.S. 645.44 subd. 5 and that this will be a paid holiday for all full-time City Employees.

Adopted this 19th day of December, 1985.

_____
Mayor Kenneth Trimble

ATTEST:

_____
Acting City Manager Pat Becker

RESOLUTION NO. 22- 13

RESOLUTION ADOPTING PERSONNEL POLICIES
FOR THE CITY OF MILACA

WHEREAS, the Personnel Policies of the City of Milaca had previously been adopted by ordinance; and

WHEREAS, it is the intention of the City Council of the City of Milaca to continue the effectiveness of the Personnel Policies (including any subsequent amendments) without any break in their application through the adoption of Personnel Policies by this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milaca that the following Personnel Policies of the City of Milaca are hereby revised and adopted by this Resolution, effective the 21st day of April, 2022:

PERSONNEL POLICIES

Section 16. HOLIDAY LEAVE- ADD JUNETEENTH (June 19)

1. Holidays Defined. Holiday leave shall be granted for the following holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	**June 19**
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Post-Thanksgiving Day	Friday after Fourth Thursday in November
Christmas Eve	Three hours, only if December 24 falls on a regular work day
Christmas	December 25

Adopted this 21st day of April 2022.

Mayor Harold Pedersen

ATTEST:

Tammy Pfaff, City Manager

192.261 LEAVE OF ABSENCE.

Subdivision 1. **Leave of absence without pay.** Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who: (1) engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law; or (2) during convalescence for an injury or disease incurred during active service, as documented by a line-of-duty determination form signed by proper military authority, and any other documentation as reasonably requested by the employer; shall be entitled to leave of absence from the officer's or employee's public office or employment without pay during such service, with right of reinstatement as hereinafter provided. Such leave of absence without pay, whether heretofore or hereafter, shall not extend beyond four years plus such additional time in each case as such an officer or employee may be required to serve pursuant to law. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 43A.183, 192.26, or 471.975. Nothing in this section contained shall affect any of the provisions or application of section 352.27 nor of section 192.26 to 192.264, or any laws amendatory thereof, insofar as such sections pertain to the state employees retirement association or its members. "Active service" has the meaning given the term in section 190.05, subdivision 5.

Subd. 2. **Reinstatement.** Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position, which was held at the time of entry into such service, or a public position of like seniority, status, and pay if such is available at the same salary which the officer or employee would have received if the leave had not been taken, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that the officer or employee is not physically or mentally disabled from performing the duties of such position; (3) that the officer or employee makes written application for reinstatement to the appointing authority within 90 days after termination of such service, or 90 days after discharge from hospitalization or medical treatment which immediately follows the termination of, and results from, such service; provided such application shall be made within one year and 90 days after termination of such service notwithstanding such hospitalization or medical treatment; (4) that the officer or employee submits an honorable discharge or other form of release by proper authority indicating that the officer's or employee's military or naval service was satisfactory. Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave. The officer or employee reinstated under this section is entitled to vacation and sick leave with pay as provided in any applicable civil service rules, collective bargaining agreement, or compensation plan, and accumulates vacation and sick leave from the time the person enters active military service until the date of reinstatement without regard to any otherwise applicable limits on civil service rules limiting the number of days which may be accumulated. No officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

Subd. 3. **Shall file certificate.** Any public officer elected or appointed for a definite term who, before the expiration of such term, returns from military or naval service under leave of absence without pay under chapters 190 to 193, in lieu of making written application for reinstatement as hereinbefore provided, shall file in the same office where the public officer's oath is filed within 45 days after termination of such military or naval service a verified certificate that the public officer has complied with the conditions for reinstatement hereinbefore prescribed, and that public officer shall thereupon be deemed to have resumed that office, with

all the rights and privileges granted by chapters 190 to 193; provided, that any false statement in such certificate shall be ground for removal.

Subd. 4. **Person engaged in active service qualified to be candidate for public office.** No person who is engaged in active service in any of the military or naval forces of the state or of the United States within or without the state shall thereby be disqualified from being a candidate for or from being elected or appointed to any public office within the state if that person is otherwise eligible therefor. A person who is elected or appointed to any such office who at the commencement of the term thereof is engaged in any such active military or naval service shall not thereby be disqualified from assuming and holding such office if otherwise eligible therefor and if that person's military or naval service is not constitutionally or legally incompatible therewith. Such person, if prevented by military or naval duties from taking office in person, may file an oath of office, and a bond, if required, by mail or other means of transmittal, and shall thereupon be deemed to have assumed office, subject to all the provisions of sections 192.26 to 192.264, so far as applicable.

Subd. 5. **Active duty for training, inactive duty training; reemployment rights.** (a) Any public officer or employee who is a member of the military forces who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within 31 days after that member's (1) release from that active duty for training after satisfactory service, or (2) discharge from hospitalization incident to that active duty for training, or one year after a scheduled release from that training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this section. Any person restored to a position in accordance with the provisions of this clause shall not be discharged from the position without cause within six months after that restoration.

(b) Any public officer or employee not covered by section 192.26, or by clause (a) shall, upon request, be granted a leave of absence from public employment for the period required to perform active duty for training or inactive duty training in the military forces. Upon release from a period of active duty for training or inactive duty training, or upon discharge from hospitalization incident to that training, the officer or employee shall be permitted to return to the previously held position with the same seniority, status, rate of pay, and vacation as if the officer or employee had not been absent for those purposes. The officer or employee shall report for work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following release from active duty, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at the next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If that employee is hospitalized incident to active duty for training or inactive duty training, that employee shall be required to report for work (1) at the beginning of the next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, (2) within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or (3) within one year after the release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this clause is not qualified to perform the position's duties by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or a successor in interest, that employee shall be restored by that employer or a successor in interest to another position, the duties of which that employee is qualified to perform and which will provide like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in the particular case. For the purpose of this paragraph, the terms "active duty for training" and "inactive duty for training" shall have the meanings subscribed to them by the United States Code Annotated, title 38, part III, chapter 43, sections 2021 to 2026.

(c) Any employee not covered by clause (a) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination the employee's physical fitness to enter the military forces. If rejected, upon completion of the preinduction or other examination, or upon discharge from hospitalization incident to that rejection or examination, the employee shall be permitted to return to the employee's position in accordance with the provisions of clause (b).

Subd. 6. **State emergencies; reemployment rights of nonpublic employees.** A person who engages in active service in the military forces in time of emergency declared by the proper authority of any state who is not an officer or employee of this state or of any political subdivision, municipal corporation, or other public agency of this state is entitled to leave and reinstatement in the same manner and to the same extent as granted to officers and employees of this state or of any political subdivision, municipal corporation, or other public agency of this state by subdivisions 1 to 4. The provisions of this subdivision shall not entitle a person given leave and reinstatement rights by this subdivision to any pay during such service as provided by section 192.26. The provisions of this subdivision do not apply to situations in which the person's reemployment rights are protected by United States Code Annotated, appendix 50, section 459(g) of the Selective Service Act of 1967.

History: *1941 c 120 s 2; 1945 c 489 s 1; 1963 c 658 s 12-14; 1971 c 202 s 4,5; 1978 c 478 s 5; 1986 c 444; 1995 c 186 s 47; 2005 c 35 s 2; 2005 c 156 art 4 s 3; 2012 c 192 s 3,4*

181.948 LEAVE TO ATTEND MILITARY CEREMONIES.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given in this subdivision.

(b) "Active service" has the meaning given in section 190.05, subdivision 5.

(c) "Employee" means a person who performs services for compensation, in whatever form, for an employer. Employee does not include an independent contractor.

(d) "Employer" means a person or entity located or doing business in this state and having one or more employees, and includes the state and all political or other governmental subdivisions of the state.

(e) "Immediate family member" means a person's grandparent, parent, legal guardian, sibling, child, grandchild, spouse, fiance, or fiancee.

Subd. 2. **Unpaid leave required.** Unless the leave would unduly disrupt the operations of the employer, an employer shall grant a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency. The employer may limit the amount of leave provided under this subdivision to the actual time necessary for the employee to attend a send-off or homecoming ceremony for the mobilized service member, not to exceed one day's duration in any calendar year.

History: *2006 c 273 s 4*

181.947 LEAVE FOR IMMEDIATE FAMILY MEMBERS OF MILITARY PERSONNEL INJURED OR KILLED IN ACTIVE SERVICE.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Active service" has the meaning given in section 190.05, subdivision 5.

(c) "Employee" means a person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for an employer.

(d) "Employer" means a person or entity located or doing business in this state and having one or more employees, and includes the state and all political or other governmental subdivisions of the state.

(e) "Immediate family member" means a person's parent, child, grandparents, siblings, or spouse.

Subd. 2. **Unpaid leave required.** An employer must grant up to ten working days of a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

Subd. 3. **Notice.** An employee must give as much notice to the employee's employer as practicable of the employee's intent to exercise the leave guaranteed by this section.

Subd. 4. **Relationship to other leave.** The length of leave provided under this section may be reduced by any period of paid leave provided by the employer. Nothing in this section prevents an employer from providing leave benefits in addition to those provided in this section or otherwise affects an employee's rights with respect to other employment benefits.

History: *2006 c 273 s 3*

181.946 LEAVE FOR CIVIL AIR PATROL SERVICE.

Subdivision 1. **Definitions.** For purposes of this section, "employee" and "employer" have the meanings given them in section 181.945.

Subd. 2. **Unpaid leave required.** Unless the leave would unduly disrupt the operations of the employer, an employer shall grant a leave of absence without pay to an employee for time spent rendering service as a member of the civil air patrol on the request and under the authority of the state or any of its political subdivisions.

History: *1997 c 20 s 1*

593.48 COMPENSATION OF JURORS AND TRAVEL REIMBURSEMENT.

A juror shall be reimbursed for round-trip travel between the juror's residence and the place of holding court and compensated for required attendance at sessions of court and may be reimbursed for additional day care expenses incurred as a result of jury duty at rates determined by the supreme court. A juror may request reimbursement for additional parking expenses incurred as a result of jury duty, in which case the reimbursement shall be paid and the juror's compensation for required attendance at sessions of court shall be reduced by the amount of the parking reimbursement. Except in the Eighth Judicial District where the state shall pay directly, the compensation and reimbursement shall be paid out of the county treasury upon receipt of authorization to pay from the jury commissioner. These jury costs shall be reimbursed monthly by the supreme court upon submission of an invoice by the county treasurer. A monthly report of payments to jurors shall be sent to the jury commissioner within two weeks of the end of the month in the form required by the jury commissioner.

History: *1977 c 286 s 18; 1983 c 279 s 1; 1986 c 444; 1991 c 345 art 1 s 105; 1993 c 192 s 104; 1994 c 636 art 8 s 12*

611A.036 PROHIBITION AGAINST EMPLOYER RETALIATION.

Subdivision 1. **Victim or witness.** An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 2. **Victim's spouse or immediate family members.** An employer must allow a victim of a violent crime, as well as the victim's spouse or immediate family members, reasonable time off from work to attend criminal proceedings related to the victim's case.

Subd. 3. **Prohibited acts.** An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to attend a criminal proceeding pursuant to this section.

Subd. 4. **Verification; confidentiality.** An employee who is absent from the workplace shall give 48 hours' advance notice to the employer, unless impracticable or an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

Subd. 5. **Penalty.** An employer who violates this section is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any employee discharged from employment in violation of this section, and to pay the employee back wages as appropriate.

Subd. 6. **Civil action.** In addition to any remedies otherwise provided by law, an employee injured by a violation of this section may bring a civil action for recovery for damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

Subd. 7. **Definition.** As used in this section, "violent crime" means a violation or attempt to violate any of the following: section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.247 (carjacking); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451

(criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.3458 (sexual extortion); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1 (arson in the first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c) (burglary in the first degree; occupied dwelling or involving an assault); 609.66, subdivision 1e, paragraph (b) (drive-by shooting; firing at or toward a person, or an occupied building or motor vehicle); or 609.749, subdivision 2 (harassment); or Minnesota Statutes 2012, section 609.21.

History: *1986 c 463 s 9; 1994 c 636 art 7 s 1; 2005 c 136 art 8 s 23; 2007 c 54 art 4 s 5,6; 2009 c 137 s 10; 2013 c 34 s 4; 1Sp2019 c 5 art 2 s 29; 1Sp2021 c 11 art 4 s 31; 2023 c 52 art 20 s 29*

176.011 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter the terms described in this section have the meanings ascribed to them.

Subd. 9. **Employee.** (a) "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

181.940 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 181.940 to 181.944, the terms defined in this section have the meanings given them.

Subd. 2. **Employee.** "Employee" means a person who performs services for hire for an employer from whom a leave is requested under sections 181.940 to 181.944.

Employee includes all individuals employed by the employer but does not include an independent contractor.

Subd. 3. **Employer.** "Employer" means a person or entity that employs one or more employees and includes an individual, corporation, partnership, association, business, trust, nonprofit organization, group of persons, state, county, town, city, school district, or other governmental subdivision.

Subd. 4. **Child.** "Child" means an individual under 18 years of age or an individual under age 20 who is still attending secondary school.

History: *1987 c 359 s 1; 1990 c 577 s 1; 1991 c 268 s 1; 2014 c 239 art 3 s 1; 2023 c 53 art 11 s 28,29*

181.941 PREGNANCY AND PARENTING LEAVE.

Subdivision 1. **Twelve-week leave; pregnancy, birth, or adoption.** (a) An employer must grant an unpaid leave of absence to an employee who is:

(1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or

(2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions.

(b) The length of the leave shall be determined by the employee, but must not exceed 12 weeks, unless agreed to by the employer.

Subd. 2. **Start of leave.** The leave shall begin at a time requested by the employee. The employer may adopt reasonable policies governing the timing of requests for unpaid leave and may require an employee who plans to take a leave under this section to give the employer reasonable notice of the date the leave shall commence and the estimated duration of the leave. For leave taken under subdivision 1, paragraph (a), clause (1), the leave must begin within 12 months of the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital.

Subd. 3. **No employer retribution.** An employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining a leave of absence as provided by this section.

Subd. 4. **Continued insurance.** The employer must continue to make coverage available to the employee while on leave of absence under any group insurance policy, group subscriber contract, or health care plan for the employee and any dependents. Nothing in this section requires the employer to pay the costs of the insurance or health care while the employee is on leave of absence.

History: *1987 c 359 s 2; 1990 c 577 s 2; 2014 c 239 art 3 s 2; 2023 c 53 art 11 s 30*

363A.28 GRIEVANCES.

Subd. 3. **For filing claim; filing options.** (a) A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363A.33, subdivision 1, filed in a charge with a local commission pursuant to section 363A.07, subdivision 3, or filed in a charge with the commissioner within one year after the occurrence of the practice.

(b) The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

624.711 DECLARATION OF POLICY.

It is not the intent of the legislature to regulate shotguns, rifles and other longguns of the type commonly used for hunting and not defined as pistols or semiautomatic military-style assault weapons, or to place costs of administration upon those citizens who wish to possess or carry pistols or semiautomatic military-style assault weapons lawfully, or to confiscate or otherwise restrict the use of pistols or semiautomatic military-style assault weapons by law-abiding citizens.

History: *1975 c 378 s 1; 1993 c 326 art 1 s 22*

197.46 VETERANS PREFERENCE ACT; REMOVAL FORBIDDEN; RIGHT OF MANDAMUS.

(a) Any person whose rights may be in any way prejudiced contrary to any of the provisions of this section, is entitled to a writ of mandamus to remedy the wrong. After any initial hiring probationary period expires, no person holding a position either in the state civil service or by appointment or employment in any county, home rule charter or statutory city, town, school district, or any other political subdivision in the state who is a veteran separated from the military service under honorable conditions, shall be removed from the position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, in writing.

(b) Any veteran who has been notified of the intent to discharge the veteran from an appointed position or employment pursuant to this section shall be notified in writing of the intent to discharge and of the veteran's right to request a hearing within 30 days of receipt of the notice of intent to discharge. The failure of a veteran to request a hearing within the provided 30-day period constitutes a waiver of the right to a hearing. The failure also waives all other available legal remedies for reinstatement.

Request for a hearing concerning such a discharge shall be made in writing and submitted by mail or personal service to the employment office of the concerned employer or other appropriate office or person. If the veteran requests a hearing under this section, the written request must also contain the veteran's election to be heard by a civil service board or commission, a merit authority, or an arbitrator as defined in paragraph (c). If the veteran fails to identify the veteran's election, the governmental subdivision may select the hearing body.

(c) In all governmental subdivisions having an established civil service board or commission, or merit system authority, the veteran may elect to have the hearing for removal or discharge before the civil service board or commission or merit system authority, or before an arbitrator as specified in this paragraph. Where no civil service board or commission or merit system authority exists, the hearing shall be held by an arbitrator. In cases where a hearing will be held by an arbitrator, the employer shall request from the Bureau of Mediation Services a list of seven persons to serve as an arbitrator. The employer shall strike the first name from the list and the parties shall alternately strike names from the list until the name of one arbitrator remains. After receiving each of the employer's elections to strike a person from the list, the veteran has 48 hours to strike a person from the list. The person remaining after the striking procedure must be the arbitrator. Upon the selection of the arbitrator, the employer shall notify the designated arbitrator and request available dates to hold the hearing. In the event that the hearing is authorized to be held before an arbitrator, the governmental subdivision's notice of intent to discharge shall state that the veteran must respond within 30 days of receipt of the notice of intent to discharge.

(d) Either the veteran or the governmental subdivision may appeal from the decision of the hearing body upon the charges to the district court by causing written notice of appeal, stating the grounds of the appeal, to be served upon the other party within 15 days after notice of the decision and by filing the original notice of appeal with proof of service in the office of the court administrator of the district court within ten days after service thereof. Nothing in section 197.455 or this section shall be construed to apply to the position of private secretary, superintendent of schools, or one chief deputy of any elected official or head of a department, or to any person holding a strictly confidential relation to the appointing officer. Nothing in this section shall be construed to apply to the position of teacher. The burden of establishing such relationship shall be upon the appointing officer in all proceedings and actions relating thereto.

(e) For disputes heard by a civil service board, commission or merit system authority, or an arbitrator, the governmental subdivisions shall bear all costs associated with the hearing but not including attorney fees for attorneys representing the veteran. If the veteran prevails in a dispute heard by a civil service board,

commission or merit system authority, or an arbitrator and the hearing reverses the level of the alleged incompetency or misconduct requiring discharge, the governmental subdivision shall pay the veteran's reasonable attorney fees.

(f) All officers, boards, commissions, and employees shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of section 197.455 and this section notwithstanding any laws, charter provisions, ordinances or rules to the contrary. Any willful violation of such sections by officers, officials, or employees is a misdemeanor.

History: *(4369) 1907 c 263 s 2; 1917 c 499 s 1; 1919 c 14 s 1; 1919 c 192 s 2; 1937 c 121; Ex1937 c 6 s 2; 1943 c 230 s 2; 1945 c 502 s 2; 1961 c 566 s 1; 1974 c 549 s 1; 1975 c 45 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2009 c 94 art 3 s 15; 2010 c 333 art 2 s 10; 2012 c 230 s 1; 2015 c 77 art 3 s 6; 2016 c 189 art 13 s 55*

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Statement of Position
Out-of-State Travel Policies

Cities, counties, school districts, regional agencies, and other political subdivisions, except towns, must have a policy that controls out-of-state travel by their elected officials.[1] The policy must specify:

- When travel outside the state is appropriate;
- Applicable expense limits; and
- Procedures for approval of the travel.

The policy and any subsequent changes to it must be approved by a recorded vote.[2] The policy must be available for public inspection.

A formal travel policy gives a political subdivision direction and guidance on travel expenditures by elected officials. We recommend a resolution or detailed motion for approval of out-of-state travel. The approval should be given in advance of the travel. The resolution or motion should provide both the specific authority for the expenditure and the public purpose for the travel.

For example, some cities participate in the "Sister City" program. We know of no express statutory authority allowing a city to expend public funds on such a program. In addition, as with any expenditure of public funds, the expenditure must be for a public purpose. Recognizing these limitations, many cities pay for "Sister City" expenses by using financial contributions or gifts from private entities or the local Chamber of Commerce. The city, rather than the individual elected official, should accept the gift by a two-thirds majority, prior to the travel.[3]

Public purpose principles apply to out-of-state travel, and should be incorporated in the policy. For example, public funds should not be used for the following:

- Costs for travel of family members;

[1] *See* Minn. Stat. § 471.661. While towns are not required to adopt an out-of-state travel policy, they may choose to do so.
[2] *See* Minn. Stat. § 471.661.
[3] *See* Minn. Stat. § 465.03; *Kelly v. Campaign Finance and Public Disclosure Board*, 679 N.W.2d 178 (Minn. App. 2004).

Reviewed: December 2013 2007-1020
Revised: December 2013

- Alcoholic beverages; or
- Events sponsored by or affiliated with political parties.

To sum up, local governments, except for towns, must have out-of-state travel policies, approved by their governing bodies. The governing body must also approve the expenditure of public funds. Public employees and elected officials who make expenditures while disregarding the out-of-state travel policy run the risk that the governing body will not approve their expenditures. If that happens, the public employee or elected official may be personally liable for the payment.

The League of Minnesota Cities has a model out-of-state travel policy on its website at: https://www.lmc.org/media/document/1/modelelectedofficialtravelpolicy.docx.

RESOLUTION NO. 18-48

RESOLUTION ADOPTING THE IRS STANDARD MILAGE RATE
FOR THE CITY OF MILACA

WHEREAS, the City of Milaca had previously adopted a mileage reimbursement policy on January 1st of 2012; and

WHEREAS, The City Council of the City of Milaca will amend the policy to accept the IRS Standard Mileage Rate; and

WHEREAS, it is the intention of the City Council of the City of Milaca to continue the effectiveness of the City Policies by this Resolution and to comply with the IRS Standard Mileage rate hereafter and;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milaca that the Mileage Rate Reimbursement Policy of the City of Milaca is hereby revised and adopted by this Resolution, effective the 15th day of November, 2018:

Mayor Harold Pedersen

ATTEST:

City Manager Tammy Pfaff

TRAVEL EXPENSE CLAIM FORM

TRANSPORTATION (Personal Vehicle Only)

Beginning Mileage _____

Ending Mileage _____

Total Mileage _____ @ $0.70 cents per mile

TOTAL TRANSPORTATION

$_____

MEALS

DATE	BREAKFAST	LUNCH	DINNER	TOTAL ACTUAL	TOTAL ALLOWABLE $45 PER DAY

PLEASE ATTACH RECEIPTS

TOTAL MEALS $_____

REGISTRATION (IF ANY) **TOTAL REGISTRATION $_____**

LODGING

Hotel/Motel Name _____

Amt. per Night $_____ x # of nights_____ **TOTAL LODGING $_____**

(Attach bill)

MISCELLANEOUS (Itemize & attach receipts for items over $5.00)

_____ **$_____**

_____ **$_____**

TOTAL MISCELLANEOUS $_____

TOTAL TRANSPORTATION, MEALS, REGISTRATION, LODGING & MISCELLANEOUS **$_____**

LESS DIRECT PAYMENT (IF ANY) **$(_____)**

NET EXPENSES **$_____**

****

Name _____ Department_____

Home Address_____

City St Zip

Name of Training/School_____

City, State _____ Date(s) _____

I certify that this claim is correct and that no part of it has been paid except those amounts listed above as direct payment.

Signed _____ **Date** _____

City Manager Approval _____ **Date** _____

No Call, No Text, No Ticket

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

MOBILE PHONE RESTRICTIONS
FACT SHEET

New Mobile Phone Restriction Rule For Commercial Motor Vehicle Drivers

Overview and Background

A new FMCSA rule restricts the use of all hand-held mobile devices by drivers of commercial motor vehicles (CMVs). This rulemaking restricts a CMV driver from holding a mobile device to make a call, or dialing by pressing more than a single button. CMV drivers who use a mobile phone while driving can only use a hands-free phone located in close proximity.

Research commissioned by FMCSA shows that the odds of being involved in a safety-critical event (e.g., crash, near-crash, unintentional lane deviation) are 6 times greater for CMV drivers who engage in dialing a mobile phone while driving than for those who do not. Dialing drivers took their eyes off the forward roadway for an average of 3.8 seconds. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 306 feet, the approximate length of a football field, without looking at the roadway!

What is the definition of using a mobile telephone?

- The use of a hand-held mobile telephone means:
  - Using at least one hand to hold a mobile phone to make a call;
  - Dialing a mobile phone by pressing more than a single button; or
  - Reaching for a mobile phone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt.

What does this rule mean to drivers and carriers?

- **Fines and Penalties –** Using a hand-held mobile phone while driving a CMV can result in driver disqualification. Penalties can be up to $2,750 for drivers and up to $11,000 for employers who allow or require drivers to use a hand-held communications device while driving.

- **Disqualification -** Multiple violations of the prohibition of using a hand-held mobile phone while driving a CMV can result in a driver disqualification by FMCSA. Multiple violations of State laws prohibiting use of a mobile phone while driving a CMV is a serious traffic violation that could result in a disqualification by a State of drivers required to have a Commercial Drivers License.

- **What are the risks? -** Using a hand-held mobile phone is risky because it requires the driver to reach for and dial the phone to make a call. Reaching for a phone out of the driver's immediate area is risky as well as dialing because these actions take the driver's eyes off the roadway.

- The rule applies to drivers operating a commercial motor vehicle on a roadway, including moving forward or temporarily stationary because of traffic, traffic control devices, or other momentary delays.

- A mounted phone is acceptable as long as it is mounted close to the driver.

- **Impact on Safety Measurement System (SMS) Results** – Violations negatively impact SMS results, and they carry the maximum severity weight.

It's very easy to comply with the new rules:
No *REACHING*
No *HOLDING*
No *DIALING*
No *TEXTING*
No *READING*

Compliance

- Make sure the mobile telephone is within close enough proximity that it is operable while the driver is restrained by properly installed and adjusted seat belts.

- Use an earpiece or the speaker phone function.

- Use voice-activated dialing.

- Use the hands-free feature. To comply, a driver *must* have his or her mobile telephone located where he or she is able to initiate, answer, or terminate a call by touching a single button. The driver must be in the seated driving position and properly restrained by a seat belt. Drivers are **not** in compliance if they unsafely reach for a mobile phone, even if they intend to use the hands-free function.

No Call, No Text, No Ticket!

Print and place near a computer employees have access to

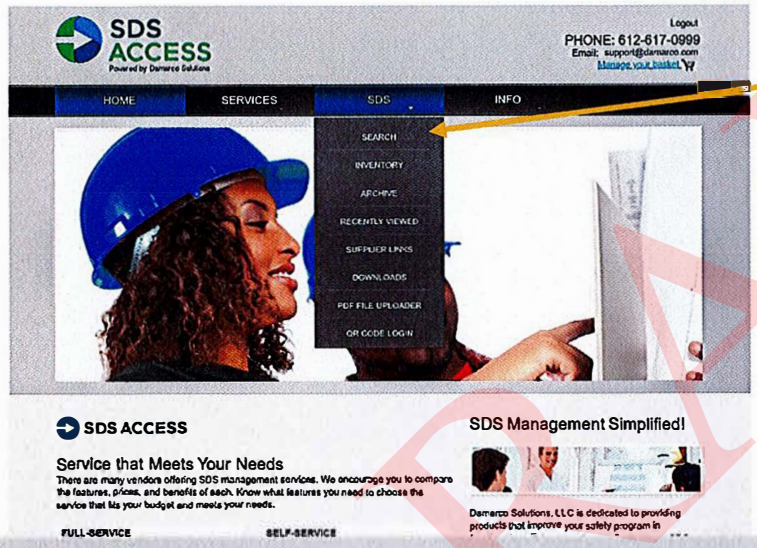
24/7 Access to any SDS information.

If there is an SDS that you use frequently you can store the SDS under our account.

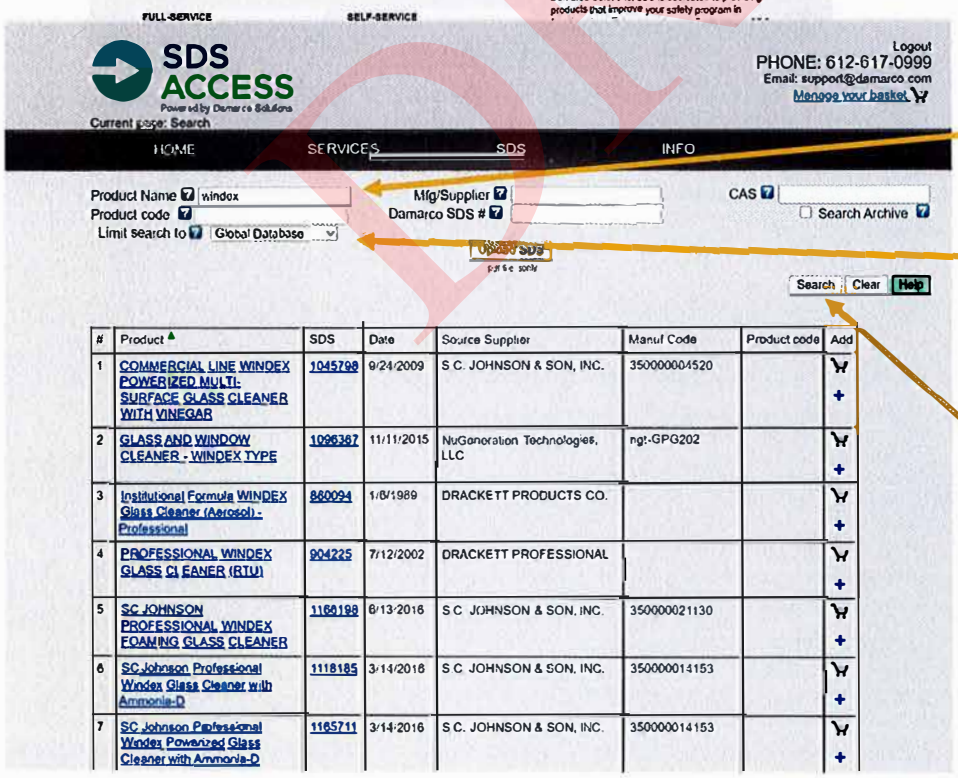
Login information:

To log in go to sdsaccessonline.com

Username: gkirkeby@milacacity.com
Password:



To search for a product's SDS hover over the SDS tab then click SEARCH.



Type the product name.

Select Global Database under the limit search to column.

Click search.

CITY OF MILACA

SAFETY BOOT POLICY

PUBLIC WORKS DEPARTMENT

Public Works full-time employees shall be equipped with OSHA mandated ANSI (American National Safety Institute) approved steel-toed safety boots. The employer shall reimburse each employee not to exceed $200.00 per pair of boots, per year, upon receipt from employee demonstrating employee procurement of the boots.

Documentation that boot purchases meet ANSI standards must be furnished with said reimbursement request. All requests for reimbursement must be approved by submitting a purchase order request to the department head prior to purchase.

Safety boot purchases within six months prior to leaving city employment would require a 50% reimbursement from the employee. The deduction would be taken from the employee's final paycheck.

I _____have read and understand the policy as stated above and agree with the policy requirements.

_____

Employee Signature

Date _____

Policy adopted by City Council on February 21, 2019

13.01 GOVERNMENT DATA.

Subdivision 1. **Applicability.** All government entities shall be governed by this chapter.

Subd. 2. **Citation.** This chapter may be cited as the "Minnesota Government Data Practices Act."

Subd. 3. **Scope.** This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in government entities. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.

Subd. 4. **Headnotes.** The headnotes printed in boldface type before paragraphs in this chapter are mere catchwords to indicate the content of a paragraph and are not part of the statute.

Subd. 5. **Provisions coded in other chapters.** (a) The sections referenced in this chapter that are codified outside this chapter classify government data as other than public, place restrictions on access to government data, or involve data sharing.

(b) Those sections are governed by the definitions and general provisions in sections 13.01 to 13.07 and the remedies and penalties provided in sections 13.08 and 13.09, except:

(1) for records of the judiciary, as provided in section 13.90; or

(2) as specifically provided otherwise by law.

History: *1979 c 328 s 1; 1981 c 311 s 1,39; 1Sp1981 c 4 art 1 s 4,5; 1982 c 545 s 24; 1991 c 319 s 1; 1999 c 227 s 22; 2000 c 468 s 1,2; 2005 c 163 s 3,4*

13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the Department of Commerce, and county human service agency client and provider fraud investigation, prevention, and control units operated or supervised by the Department of Human Services.

Subd. 15. **Public benefit data.** Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 7 or as private or nonpublic under section 13.825 or 626.19 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;

(b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct, sexual extortion, or sex trafficking under section 609.322, 609.341 to 609.3451, 609.3458, or 617.246, subdivision 2;

(c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

(d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;

(e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 60A.952, subdivision 2, 609.456, or 626.557 or chapter 260E.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

13.825 PORTABLE RECORDING SYSTEMS.

Subdivision 1. **Application; definition.** (a) This section applies to law enforcement agencies that maintain a portable recording system for use in investigations, or in response to emergencies, incidents, and requests for service.

(b) As used in this section:

(1) "portable recording system" means a device worn by a peace officer that is capable of both video and audio recording of the officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation;

(2) "portable recording system data" means audio or video data collected by a portable recording system; and

(3) "redact" means to blur video or distort audio so that the identity of the subject in a recording is obscured sufficiently to render the subject unidentifiable.

Subd. 2. **Data classification; court-authorized disclosure.** (a) Data collected by a portable recording system are private data on individuals or nonpublic data, subject to the following:

(1) data that record, describe, or otherwise document actions and circumstances surrounding either the discharge of a firearm by a peace officer in the course of duty, if a notice is required under section 626.553, subdivision 2, or the use of force by a peace officer that results in substantial bodily harm, as defined in section 609.02, subdivision 7a, are public;

(2) data are public if a subject of the data requests it be made accessible to the public, except that, if practicable, (i) data on a subject who is not a peace officer and who does not consent to the release must be redacted, and (ii) data on a peace officer whose identity is protected under section 13.82, subdivision 17, clause (a), must be redacted;

(3) subject to paragraphs (b) to (d), portable recording system data that are active criminal investigative data are governed by section 13.82, subdivision 7, and portable recording system data that are inactive criminal investigative data are governed by this section;

(4) portable recording system data that are public personnel data under section 13.43, subdivision 2, clause (5), are public; and

(5) data that are not public data under other provisions of this chapter retain that classification.

(b) Notwithstanding section 13.82, subdivision 7, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, subject to paragraphs (c) and (d):

(1) the deceased individual's next of kin;

(2) the legal representative of the deceased individual's next of kin; and

(3) the other parent of the deceased individual's child.

(c) A law enforcement agency may deny a request to inspect portable recording system data under paragraph (b) if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access under this paragraph, the chief law enforcement officer

must provide a prompt, written denial to the individual in paragraph (b) who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82, subdivision 7.

(d) When an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82, subdivision 7.

(e) A law enforcement agency may redact or withhold access to portions of data that are public under this subdivision if those portions of data are clearly offensive to common sensibilities.

(f) Section 13.04, subdivision 2, does not apply to collection of data classified by this subdivision.

(g) Any person may bring an action in the district court located in the county where portable recording system data are being maintained to authorize disclosure of data that are private or nonpublic under this section or to challenge a determination under paragraph (e) to redact or withhold access to portions of data because the data are clearly offensive to common sensibilities. The person bringing the action must give notice of the action to the law enforcement agency and subjects of the data, if known. The law enforcement agency must give notice to other subjects of the data, if known, who did not receive the notice from the person bringing the action. The court may order that all or part of the data be released to the public or to the person bringing the action. In making this determination, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency, or to a subject of the data and, if the action is challenging a determination under paragraph (e), whether the data are clearly offensive to common sensibilities. The data in dispute must be examined by the court in camera. This paragraph does not affect the right of a defendant in a criminal proceeding to obtain access to portable recording system data under the Rules of Criminal Procedure.

Subd. 3. **Retention of data.** (a) Portable recording system data that are not active or inactive criminal investigative data and are not described in paragraph (b) or (c) must be maintained for at least 90 days and destroyed according to the agency's records retention schedule approved pursuant to section 138.17.

(b) Portable recording system data must be maintained for at least one year and destroyed according to the agency's records retention schedule approved pursuant to section 138.17 if:

(1) the data document (i) the discharge of a firearm by a peace officer in the course of duty if a notice is required under section 626.553, subdivision 2, or (ii) the use of force by a peace officer that results in substantial bodily harm; or

(2) a formal complaint is made against a peace officer related to the incident.

(c) Portable recording system data that document a peace officer's use of deadly force must be maintained indefinitely.

(d) If a subject of the data submits a written request to the law enforcement agency to retain the recording beyond the applicable retention period for possible evidentiary or exculpatory use related to the circumstances under which the data were collected, the law enforcement agency shall retain the recording for an additional time period requested by the subject of up to 180 days and notify the requester that the recording will then be destroyed unless a new request is made under this paragraph.

(e) Notwithstanding paragraph (b), (c), or (d), a government entity may retain a recording for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident with respect to which the data were collected.

Subd. 4. **Access by data subjects.** (a) For purposes of this chapter, a portable recording system data subject includes the peace officer who collected the data, and any other individual or entity, including any other peace officer, regardless of whether the officer is or can be identified by the recording, whose image or voice is documented in the data.

(b) An individual who is the subject of portable recording system data has access to the data, including data on other individuals who are the subject of the recording. If the individual requests a copy of the recording, data on other individuals who do not consent to its release must be redacted from the copy. The identity and activities of an on-duty peace officer engaged in an investigation or response to an emergency, incident, or request for service may not be redacted, unless the officer's identity is subject to protection under section 13.82, subdivision 17, clause (a).

Subd. 5. **Inventory of portable recording system technology.** A law enforcement agency that uses a portable recording system must maintain the following information, which is public data:

(1) the total number of recording devices owned or maintained by the agency;

(2) a daily record of the total number of recording devices actually deployed and used by officers and, if applicable, the precincts in which they were used;

(3) the policies and procedures for use of portable recording systems required by section 626.8473; and

(4) the total amount of recorded audio and video data collected by the portable recording system and maintained by the agency, the agency's retention schedule for the data, and the agency's procedures for destruction of the data.

Subd. 6. **Use of agency-issued portable recording systems.** While on duty, a peace officer may only use a portable recording system issued and maintained by the officer's agency in documenting the officer's activities.

Subd. 7. **Authorization to access data.** (a) A law enforcement agency must comply with sections 13.05, subdivision 5, and 13.055 in the operation of portable recording systems and in maintaining portable recording system data.

(b) The responsible authority for a law enforcement agency must establish written procedures to ensure that law enforcement personnel have access to the portable recording system data that are not public only if authorized in writing by the chief of police, sheriff, or head of the law enforcement agency, or their designee, to obtain access to the data for a legitimate, specified law enforcement purpose.

Subd. 8. **Sharing among agencies.** (a) Portable recording system data that are not public may only be shared with or disseminated to another law enforcement agency, a government entity, or a federal agency upon meeting the standards for requesting access to data as provided in subdivision 7.

(b) If data collected by a portable recording system are shared with another state or local law enforcement agency under this subdivision, the agency that receives the data must comply with all data classification, destruction, and security requirements of this section.

(c) Portable recording system data may not be shared with, disseminated to, sold to, or traded with any other individual or entity unless explicitly authorized by this section or other applicable law.

Subd. 9. **Biennial audit.** (a) A law enforcement agency must maintain records showing the date and time portable recording system data were collected and the applicable classification of the data. The law enforcement agency shall arrange for an independent, biennial audit of the data to determine whether data are appropriately classified according to this section, how the data are used, and whether the data are destroyed as required under this section, and to verify compliance with subdivisions 7 and 8. If the governing body with jurisdiction over the budget of the agency determines that the agency is not complying with this section or other applicable law, the governing body may order additional independent audits. Data in the records required under this paragraph are classified as provided in subdivision 2.

(b) The results of the audit are public, except for data that are otherwise classified under law. The governing body with jurisdiction over the budget of the law enforcement agency shall review the results of the audit. If the governing body determines that there is a pattern of substantial noncompliance with this section, the governing body must order that operation of all portable recording systems be suspended until the governing body has authorized the agency to reinstate their use. An order of suspension under this paragraph may only be made following review of the results of the audit and review of the applicable provisions of this chapter, and after providing the agency and members of the public a reasonable opportunity to respond to the audit's findings in a public meeting.

(c) A report summarizing the results of each audit must be provided to the governing body with jurisdiction over the budget of the law enforcement agency, to the Legislative Commission on Data Practices and Personal Data Privacy, and to the chairs and ranking minority members of the committees of the house of representatives and the senate with jurisdiction over data practices and public safety issues no later than 60 days following completion of the audit.

Subd. 10. **Notification to BCA.** Within ten days of obtaining new surveillance technology that expands the type or scope of surveillance capability of a portable recording system device beyond video or audio recording, a law enforcement agency must notify the Bureau of Criminal Apprehension that it has obtained the new surveillance technology. The notice must include a description of the technology and its surveillance capability and intended uses. The notices are accessible to the public and must be available on the bureau's website.

Subd. 11. **Portable recording system vendor.** (a) For purposes of this subdivision, "portable recording system vendor" means a person who is not a government entity and who provides services for the creation, collection, retention, maintenance, processing, or dissemination of portable recording system data for a law enforcement agency or other government entity. By providing these services to a government entity, a vendor is subject to all of the requirements of this chapter as if it were a government entity.

(b) A portable recording system vendor that stores portable recording system data in the cloud must protect the data in accordance with the security requirements of the United States Federal Bureau of Investigation Criminal Justice Information Services Division Security Policy 5.4 or its successor version.

(c) Subject to paragraph (d), in an action against a vendor under section 13.08 for a violation of this chapter, the vendor is liable for presumed damages of $2,500 or actual damages, whichever is greater, and reasonable attorney fees.

(d) In an action against a vendor that improperly discloses data made not public by this chapter or any other statute classifying data as not public, the vendor is liable for presumed damages of $10,000 or actual damages, whichever is greater, and reasonable attorney fees.

Subd. 12. **Penalties for violation.** In addition to any other remedies provided by law, in the case of a willful violation of this section a law enforcement agency is subject to exemplary damages of not less than

twice the minimum, nor more than twice the maximum allowable for exemplary damages under section 13.08, subdivision 1.

History: *2016 c 171 s 5; 1Sp2021 c 11 art 3 s 5; 2023 c 52 art 10 s 1,2*

340A.504 HOURS AND DAYS OF SALE.

Subdivision 1. **3.2 percent malt liquor.** No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday.

Subd. 2. **Intoxicating liquor; on-sale.** No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1) between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(2) after 2:00 a.m. on Sundays, except as provided by subdivision 3.

Subd. 2a. **Certain dispensing exempt.** Where a hotel possessing an on-sale intoxicating liquor license places containers of intoxicating liquor in cabinets in hotel rooms for the use of guests staying in those hotel rooms, and a charge is made for withdrawals from those cabinets, the dispensing of intoxicating liquor from those cabinets does not constitute a sale for purposes of subdivision 2.

Subd. 3. **Intoxicating liquor; Sunday sales; on-sale.** (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays.

(b) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed $200.

(c) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(e) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of $75, plus $30 for each duplicate.

Subd. 4. **Intoxicating liquor; off-sale.** (a) No sale of intoxicating liquor may be made by an off-sale licensee:

(1) on Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;

(2) before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(3) on Thanksgiving Day;

(4) on Christmas Day, December 25; or

(5) after 8:00 p.m. on Christmas Eve, December 24.

(b) No delivery of alcohol to an off-sale or on-sale licensee may be made by a wholesaler or accepted by an off-sale or on-sale licensee on a Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday.

Subd. 5. **Bottle clubs.** No establishment licensed under section 340A.414, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 6. **Municipalities may limit hours.** A municipality may further limit the days or hours of on and off sales of alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor must apply equally to on-sale hours of 3.2 percent malt liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.

Subd. 7. **Sales after 1:00 a.m.; permit fee.** (a) No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner. Application for the permit must be on a form the commissioner prescribes. Permits are effective for one year from date of issuance. For retailers of intoxicating liquor, the fee for the permit is based on the licensee's gross receipts from on-sales of alcoholic beverages in the 12 months prior to the month in which the permit is issued, and is at the following rates:

(1) up to $100,000 in gross receipts, $300;

(2) over $100,000 but not over $500,000 in gross receipts, $750; and

(3) over $500,000 in gross receipts, $1,000.

For a licensed retailer of intoxicating liquor who did not sell intoxicating liquor at on-sale for a full 12 months prior to the month in which the permit is issued, the fee is $200. For a retailer of 3.2 percent malt liquor, the fee is $200.

(b) The commissioner shall deposit all permit fees received under this subdivision in the general fund.

(c) Notwithstanding any law to the contrary, the commissioner of revenue may furnish to the commissioner the information necessary to administer and enforce this subdivision.

History: *1985 c 139 s 1; 1985 c 305 art 7 s 4; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 5 s 4; 1987 c 152 art 1 s 1; 1988 c 420 s 1; 1989 c 49 s 3-5; 1990 c 554 s 14; 1991 c 249 s 21,22,31; 1992 c 513 art 3 s 60; 1994 c 611 s 26; 1997 c 129 art 1 s 8; 2002 c 318 s 2; 2003 c 126 s 10-12; 1Sp2003 c 19 art 2 s 59,79; 2005 c 131 s 8-10; 2005 c 136 art 8 s 18,19; 2006 c 210 s 13; 2015 c 9 art 2 s 7; 2017 c 6 s 1; 1Sp2017 c 4 art 5 s 9; 2020 c 103 s 3; 1Sp2021 c 11 art 2 s 20; 2022 c 55 art 1 s 152*

340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. **Consumption.** (a) It is unlawful for any:

(1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

(c) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Subd. 2. **Purchasing.** It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage unless under the supervision of a responsible person over the age of 21 for training, education, or research purposes. Prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by postsecondary educational institutions or state, county, or local health departments; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Subd. 3. **Possession.** It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. **Entering licensed premises.** (a) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509, no ordinance enacted by a statutory or home rule charter city may prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. **Misrepresentation of age.** It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 5a. **Attainment of age.** With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's 21st birthday.

Subd. 6. **Proof of age; defense; seizure of false identification.** (a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) a valid military identification card issued by the United States Department of Defense;

(3) a valid passport issued by the United States;

(4) a valid instructional permit issued under section 171.05 to a person of legal age to purchase alcohol which includes a photograph and the date of birth of the person issued the permit; or

(5) in the case of a foreign national, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

(c) A licensed retailer or municipal liquor store may seize a form of identification listed under paragraph (a) if the retailer or municipal liquor store has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this paragraph must deliver it to a law enforcement agency, within 24 hours of seizing it.

Subd. 7. [Repealed, 1989 c 351 s 19]

Subd. 8. **Prosecution; immunity.** (a) A person is not subject to prosecution under subdivision 1, paragraph (a), clause (2), or subdivision 3, if the person contacts a 911 operator to report that the person or another person is in need of medical assistance for an immediate health or safety concern, provided that the person who initiates contact is the first person to make such a report, provides a name and contact information, remains on the scene until assistance arrives, and cooperates with the authorities at the scene.

(b) The person who receives medical assistance shall also be immune from prosecution under paragraph (a).

(c) Paragraph (a) also applies to one or two persons acting in concert with the person initiating contact provided that all the requirements of paragraph (a) are met.

History: *1985 c 305 art 7 s 3; 1986 c 330 s 6; 1986 c 444; 1987 c 152 art 1 s 1; 1989 c 301 s 13,14; 1990 c 602 art 5 s 2-4; 1991 c 68 s 1; 1991 c 249 s 20; 1993 c 347 s 21; 1993 c 350 s 13; 1994 c 615 s 21; 1995 c 185 s 7; 1995 c 186 s 67; 1996 c 323 s 4; 1996 c 442 s 24; 1Sp1997 c 2 s 57; 1999 c 202 s 7; 2000 c 472 s 3; 2005 c 131 s 7; 2013 c 112 s 1; 2015 c 9 art 2 s 6*

340A.510 SAMPLES.

Subdivision 1. **Samples for other than malt liquor authorized.** On- or off-sale retail licensees and municipal liquor stores may provide, or permit a licensed manufacturer or a wholesaler or its agents to provide on the premises of the retail licensee or municipal liquor store, samples of wine, liqueurs, cordials, and distilled spirits which the retail licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, cordial, and distilled spirits samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of sale in a quantity less than 50 milliliters of wine per variety per customer, 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits per variety per customer.

Subd. 2. **Malt liquor samples authorized.** (a) Notwithstanding section 340A.308, a brewer may purchase from or furnish at no cost to a licensed retailer malt liquor the brewer manufactures if:

(1) the malt liquor is dispensed by the retailer only for samples in a quantity of less than 100 milliliters of malt liquor per variety per customer;

(2) where the brewer furnishes the malt liquor, the retailer makes available for return to the brewer any unused malt liquor and empty containers;

(3) the samples are dispensed by an employee of the retailer or brewer or by a sampling service retained by the retailer or brewer and not affiliated directly or indirectly with a malt liquor wholesaler;

(4) not more than three cases of malt liquor are purchased from or furnished to the retailer by the brewer for each sampling;

(5) each sampling continues for not more than eight hours;

(6) the brewer has furnished malt liquor for not more than 12 samplings for any retailer in any calendar year;

(7) where the brewer furnishes the malt liquor, the brewer delivers the malt liquor for the sampling to its exclusive wholesaler for that malt liquor;

(8) the brewer has at least seven days before the sampling filed with the commissioner, on a form the commissioner prescribes, written notice of intent to furnish malt liquor for the sampling, which contains (i) the name and address of the retailer conducting the sampling, (ii) the maximum amount of malt liquor to be furnished or purchased by the brewer, (iii) the number of times the brewer has furnished malt liquor to the retailer in the calendar year in which the notice is filed, (iv) the date and time of the sampling, (v) where the brewer furnishes the malt liquor, the exclusive wholesaler to whom the brewer will deliver the malt liquor, and (vi) a statement by the brewer to the effect that to the brewer's knowledge all requirements of this section have been or will be complied with; and

(9) the commissioner has not notified the brewer filing the notice under clause (8) that the commissioner disapproves the notice.

(b) For purposes of this subdivision, "licensed retailer" means a licensed on-sale or off-sale retailer of alcoholic beverages and a municipal liquor store.

History: *1Sp1986 c 3 art 1 s 43; 1987 c 152 art 1 s 1; 1989 c 49 s 6; 1996 c 418 s 11; 1998 c 364 s 7; 2003 c 126 s 13,14; 2014 c 240 s 19*