

Monday, March 7, 2022
6:00 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

REGULAR CITY COUNCIL MEETING – AGENDA #8

Some members of the City Council will participate in the meeting by telephone pursuant to Minnesota Statutes, Section 13D.021 rather than in person at the City Council's regular meeting place at City Hall, 5200 85th Avenue North, Brooklyn Park, Minnesota. Members of the public can monitor the Council meeting in person or by watching it on CCX Media Channel 16 or by livestreaming it at https://nwsccl-brooklynpark.granicus.com/ViewPublisher.php?view_id=5.

Anyone who wants to address the Council during the Public Comment period or on an Agenda Item may do so in person or by calling 763-493-8180 or emailing devin.montero@brooklynpark.org by 4:30 p.m. on the meeting day. You will be asked to provide your name, address, email, and phone number. You will then be registered to speak during the Public Comment period or on the agenda item and will be provided the call in number to address the Council.

Members of the public who desire to give input or testimony during the meeting may do so in person or by texting City Clerk Devin Montero at 763-439-1883 or emailing him at devin.montero@brooklynpark.org. (Subject line: "Council Testimony").

If you need these materials in an alternative format or need reasonable accommodations for a City Council meeting, please provide the City with 72-hours' notice by calling 763-424-8000 or emailing Josie Shardlow at josie.shardlow@brooklynpark.org.
Para asistencia, 763-424-8000; Yog xav tau kev pab, 763-424-8000.

Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.

Our Brooklyn Park 2025 Goals:

• A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that increase racial and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader

I. ORGANIZATIONAL BUSINESS

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT AND RESPONSE 7:00 p.m. Provides an opportunity for the public to address the Council on items which are not on the agenda. Public Comment will be limited to 15 minutes (*if no one is in attendance for Public Comment, the regular meeting may begin*), and it may not be used to make personal attacks, to air personality grievances, to make political endorsements or for political campaign purposes. Individuals should limit their comments to three minutes. Council Members will not enter into a dialogue with residents. Questions from the Council will be for clarification only. Public Comment will not be used as a time for problem solving or reacting to the comments made, but rather for hearing the residents for informational purposes only.

2A. RESPONSE TO PRIOR PUBLIC COMMENT

2B. PUBLIC COMMENT

3A. APPROVAL OF AGENDA (Items specifically identified may be removed from Consent or added elsewhere on the agenda by request of any Council Member.)

3B. PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS
None

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. CONSENT (All items listed under Consent, unless removed from Consent in agenda item 3A, shall be approved by one council motion.) Consent Agenda consists of items delegated to city management or a commission but requires council action by State law, City Charter or city code. These items must conform to a council approved policy, plan, capital improvement project, ordinance or contract. In addition, meeting minutes shall be included.

None

The following items relate to the City Council's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the City Clerk. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the council table for action.)

5. PUBLIC HEARINGS

None

6. LAND USE ACTIONS

None

7. GENERAL ACTION ITEMS

7.1 Receive Redistricting Report and Set the Public Hearing

A. CHARTER RESOLUTION

B. CURRENT DISTRICT MAP WITH NEW LEGISLATIVE LINES

C. PROPOSED DISTRICT MAP FROM THE CHARTER COMMISSION

D. LEGAL NOTICE

7.2 Resolution to Censure Council Member Boyd Morson for Violating the City's Respectful Workplace Policy and the Brooklyn Park Elected Officials Code of Conduct Policy

A. RESOLUTION

B. INVESTIGATIVE REPORT (REDACTED)

C. INVESTIGATIVE REPORT EXHIBITS (REDACTED)

III. DISCUSSION – These items will be discussion items but the City Council may act upon them during the course of the meeting.

8. DISCUSSION ITEMS

None

IV. VERBAL REPORTS AND ANNOUNCEMENTS

9A. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

9B. CITY MANAGER REPORTS AND ANNOUNCEMENTS

V. CLOSED SESSION

10.1 Close the Meeting Pursuant to MS Section 13D.03, Subd 1 (B) to Consider Strategy Relating to Labor Negotiations – Supervisor's Contract, and Pursuant to MS Section 13D.05, Subd 3(B) for Purposes of Discussing Attorney/Client Privilege Matters Relating to the Pending Litigation Between the City and Sean Hyman

VI. ADJOURNMENT

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided for the City Council on each agenda item in advance from city staff and appointed commissions, and decisions are based on this information and past experiences. If you are aware of information that has not been discussed, please raise your hand to be recognized. Please speak from the podium. Comments that are pertinent are appreciated. Items requiring excessive time may be continued to another meeting.

City of Brooklyn Park Request for Council Action

Agenda Item:	7.1	Meeting Date:	March 7, 2022
Agenda Section:	General Action Items	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Devin Montero, City Clerk
Ordinance:	N/A		
Attachments:	4	Presented By:	Charter Commissioner Dennis Secara
Item:	Receive Redistricting Report and Set the Public Hearing		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO RECEIVE THE REDISTRICTING REPORT AS PRESENTED BY THE CHARTER COMMISSION AND SET THE PUBLIC HEARING FOR MARCH 21, 2022.

Overview:

On February 15, 2022, the court issued a legislative redistricting order and Minnesota Statutes 204B.135 states that cities that elect council members by wards must be redistricted, if necessary, within 60 days after the legislature has been redistricted or at least 19 weeks before the primary election in the year ending in two, whichever is earlier.

Per City Charter Section 2.04: "The City Manager shall report to the Charter Commission recommended or required changes in district or precinct boundaries as a result of the U.S. Census or any court or legislative ordered redistricting or apportioning which affects districts or precinct boundaries. The Charter Commission and the City Council shall then proceed to redistrict pursuant to the afore described provisions of this section of the Charter and any applicable State statutes."

On February 9, 2022, at its regular meeting, the Charter Commission held discussions on their redistricting guidelines and adopted the following guidelines:

- a. The population of each council district shall be as equal as practicable.
- b. District boundaries shall be compact in size and be geographically contiguous.
- c. No district shall be more than 5% above or below the district mean.
- d. District boundaries shall follow school district boundaries.
- e. District boundaries shall follow Census block boundaries or other physical features.
- f. District boundaries shall follow legislative boundaries.
- g. District boundaries shall consider communities of interest including, but not limited to neighborhoods, homeowners' associations, and residents with similar social, geographic, political, cultural, ethnic, economic, or other interests.

On February 19, 2022, the Charter Commission held a special meeting to review the new legislative lines. There were new legislative lines that split four precincts in the Central District: Central 6, Central 7 and Central 8 and the West District, Wests 5. Discussions were held on preparing maps on the guidelines adopted by the Commissioners.

On February 24, the Charter Commission held a special meeting, and the Commissioners discussed the new legislative lines and reviewed various scenarios presented by staff. They voted and approved a draft working map (Scenario #2) to be forwarded to the Council at its February 28 meeting.

On February 28, the Charter Commission Chair updated the Council on the new legislative lines and the working draft map they adopted. The Council provided feedback to the Chair regarding the previous legislative lines and the new delineation between the new Legislative Districts 38B and 38, and balancing the apartments throughout the Council Districts.

On March 2, the Charter Commission held a special meeting and considered the Council's feedback related to the legislative lines and balancing the apartments. The Commissioners voted and recommended the attached proposed district map for the Council to consider. They also discussed and stated communities of interest were considered so that the voting strength of any particular group was neither significantly diluted or advantaged.

Primary Issues/Alternatives to Consider:

If the Council believes another scenario should be considered, direction should be given to the Charter Commission.

Redistricting Timeline:

March 7	Council receives Redistricting Report
March 10 and 17	Current District Map, Proposed Redistricted Map and Public Hearing notice published (2 consecutive issues before public hearing)
March 21	Public Hearing and First Reading of the ordinance held
March 28	Second reading of the Ordinance held; Resolution Re-Establishing Precincts adopted
March 29	Notify Secretary of State/County Auditor of Redistricting
March 29	Deadline for redistricting
April 7	Ordinance published
May 3	Last day to publish notice of new election district lines (14 days prior to filing)
May 17	Candidate Filing Opens
July 15	Last day to notify voters of new precinct boundary changes (25 days before primary)
August 9	Primary Election (new precincts and districts take effect)

Budgetary/Fiscal Issues:

Attachments:

- 7.1A CHARTER RESOLUTION
- 7.1B CURRENT DISTRICT MAP WITH NEW LEGISLATIVE LINES
- 7.1C RECOMMENDED DISTRICT MAP FROM THE CHARTER COMMISSION
- 7.1D LEGAL NOTICE

CHARTER RESOLUTION
RESOLUTION RECOMMENDING CHANGES TO
COUNCIL DISTRICT BOUNDARIES

WHEREAS, Section 2.04 of the City Charter states that the Charter Commission shall provide a redistricting report to the City Council as a result of the United States census or any court or legislative ordered redistricting; and

WHEREAS, the court issued a legislative redistricting order on February 15, 2022; and

WHEREAS, Minnesota Statutes, Section 204B.135, subd. 1, states that cities that elect council members by wards must be redistricted, if necessary, within 60 days after the legislature has been redistricted or at least 19 weeks before the primary election in the year ending in two, whichever is earlier; and

WHEREAS, the state primary election is August 9, 2022; and

WHEREAS, the city council districts must therefore be redistricted by March 29, 2022; and

WHEREAS, the Charter Commission finds that, based on the 2020 United States census, the mean population of a council district is 28,826.

WHEREAS, the Charter Commission considered and adopted the following guidelines with respect to redistricting:

- a. The population of each council district shall be as equal as practicable
- b. District boundaries shall be compact in size and be geographically contiguous.
- c. No district shall be more than 5% above or below the district mean.
- d. District boundaries shall follow school district boundaries.
- e. District boundaries shall follow Census block boundaries or other physical features.
- f. District boundaries shall follow legislative boundaries.
- g. District boundaries shall consider communities of interest including, but not limited to neighborhoods, homeowners' associations, and residents with similar social, geographic, political, cultural, ethnic, economic, or other interests.

NOW, THEREFORE, BE IT RESOLVED by the Charter Commission for the City of Brooklyn Park that it makes this report to the City Council and recommends to the City Council that the three council districts be divided along the boundary lines set forth in Attachment A to this Resolution.

BE IT FURTHER RESOLVED that based on the boundary lines set forth in Attachment A, the 2020 United States census population for the Central District is 28,991; the East District is 29,682; and the West District is 27,805.

Dennis Secara
Charter Commission Chair

Current Council Districts with new legislative lines
March 7, 2022

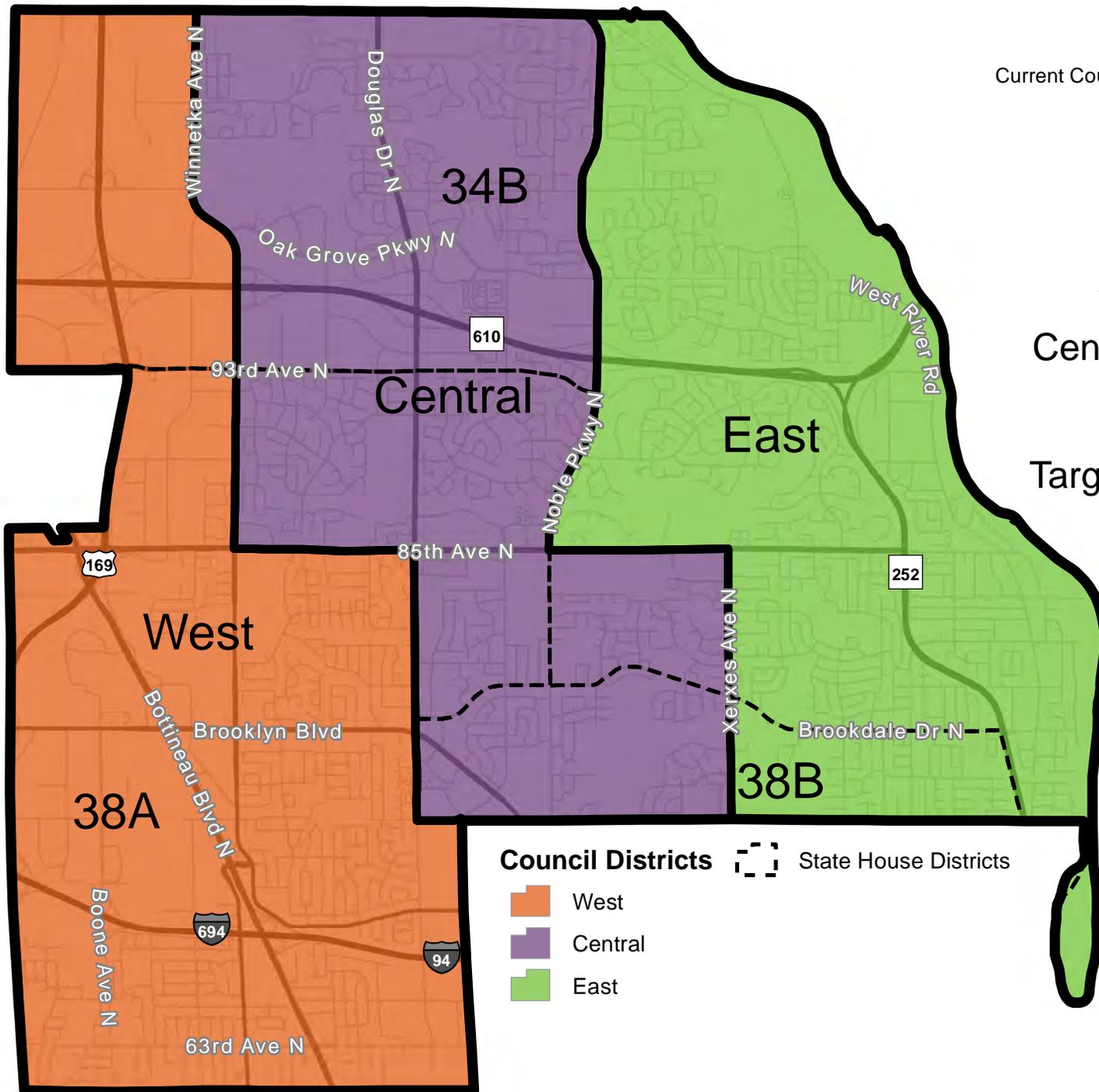
Scenario Deviations

West: 27,659 (-4.0%)

Central: 31,763 (+10.2%)

East: 27,056 (-6.1%)

Target population: 28,826



Council Districts **State House Districts**

- West
- Central
- East

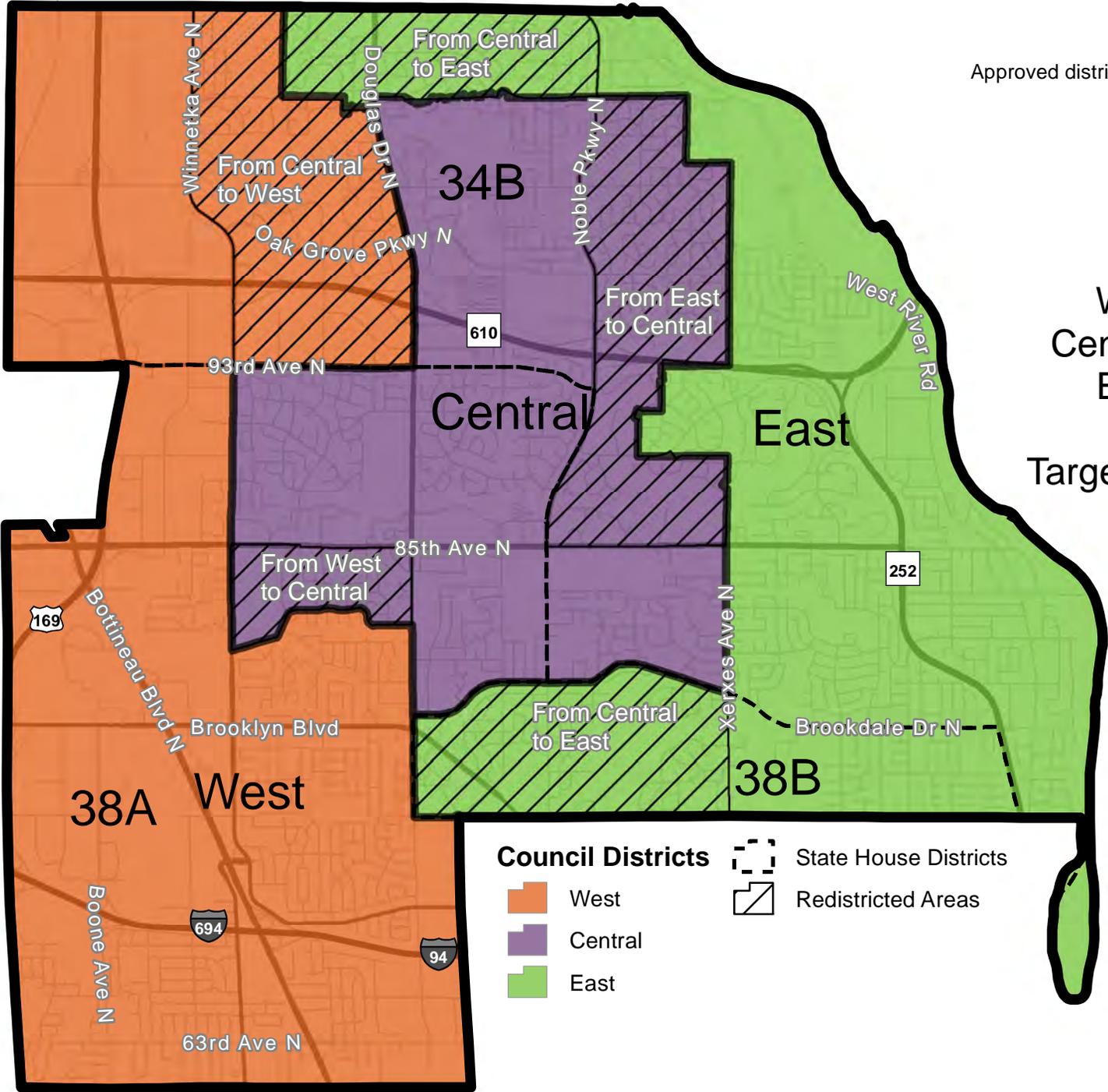
State House Districts

Approved district map from the Charter Commission
March 7, 2022

Scenario Deviations

West: 27,805 (-3.5%)
Central: 28,991 (+0.6%)
East: 29,682 (+3.0%)

Target population: 28,826



Council Districts

- West
- Central
- East

State House Districts

- State House Districts
- Redistricted Areas

NOTICE OF PUBLIC HEARING
City of Brooklyn Park, Minnesota

NOTICE IS HEREBY GIVEN that the Brooklyn Park City Council will hold a public hearing in the Council Chambers of City Hall located at 5200 85th Avenue North on Monday, March 21, 2022 at 6:00 p.m. or soon thereafter to consider the redistricting report to amend Section 10:20 of the City Code relating to city council districts.

All persons are invited to attend. The City Clerk prior to the hearing will receive written comments.

The following redistricting map was received by the City Council from the Charter commission at the Council meeting of March 7, 2022.

[INSERT ATTACHMENT A – NEW DISTRICT MAP]

Devin Montero, City Clerk

Published in the Brooklyn Park Sun Post on March 10 and 17, 2022

City of Brooklyn Park Request for Council Action

Agenda Item:	7.2	Meeting Date:	March 7, 2022
Agenda Section:	General Action Items	Originating Department:	Administration
Resolution:	X	Prepared By:	Jim Thomson, City Attorney
Ordinance:	N/A		
Attachments:	3	Presented By:	Jim Thomson, City Attorney
Item:	Resolution to Censure Council Member Boyd Morson for Violating the City's Respectful Workplace Policy and the Brooklyn Park Elected Officials Code of Conduct Policy		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2022-_____ TO CENSURE COUNCIL MEMBER BOYD MORSON FOR VIOLATING THE CITY'S RESPECTFUL WORKPLACE POLICY AND THE BROOKLYN PARK ELECTED OFFICIALS CODE OF CONDUCT POLICY.

Overview:

At the February 28, 2022 City Council meeting, the Council voted to direct the city attorney to draft a resolution of censure against Council Member Morson for violating the city's respectful workplace policy and the Brooklyn Park Elected Officials Code of Conduct Policy.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 7.2A RESOLUTION
- 7.2B INVESTIGATIVE REPORT (REDACTED)
- 7.2C INVESTIGATIVE REPORT EXHIBITS (REDACTED)

RESOLUTION #2022-

RESOLUTION TO CENSURE COUNCIL MEMBER BOYD MORSON
FOR VIOLATING THE CITY'S RESPECTFUL WORKPLACE POLICY AND
THE BROOKLYN PARK ELECTED OFFICIALS CODE OF CONDUCT POLICY

Recitals

- A. On January 20, 2022, Brooklyn Park City Manager Jay Stroebel received a complaint from a female City employee alleging inappropriate conduct by Council Member Boyd Morson.
- B. The employee alleged that Council Member Morson on several occasions aggressively communicated by email with her and that Council Member Morson engaged in unwanted physical contact with her.
- C. Pursuant to the procedure set forth in the Code of Conduct for Elected Officials, Mayor Lisa Jacobson and City Manager Stroebel reviewed the complaint in consultation with the City Attorney. They concluded that an independent investigation into the matter was warranted.
- D. Kristi Hastings, an attorney and an experienced investigator, was retained to conduct the investigation.
- E. By an email dated January 27, 2022, Mayor Jacobson advised Council Member Morson that an employee had filed a complaint against him alleging inappropriate conduct and that an independent investigation into the matter would be conducted. Mayor Jacobson's email also advised Council Member Morson that Ms. Hastings would be conducting the investigation and she would be in contact with him.
- F. By an email dated January 27, 2022, Ms. Hastings contacted Council Member Morson and suggested a date and time for her to meet with him. Council Member Morson responded to Ms. Hastings in an email dated January 28, 2022. In that email, Council Member Morson stated he was unwilling to meet with her unless certain conditions were met. One of those conditions was that he receive a copy of the complaint "with complainant's name, date, signature affixed."
- G. Ms. Hastings responded to Council Member Morson by an email dated January 29, 2022. She advised Council Member Morson that she would share the complaint with him when they met and advised him that it related to his interactions with a female employee of the City. She also advised Council Member Morson that he would have a full and complete opportunity to discuss the matter with her when she met with him and that he would have additional time after their meeting to consider the situation and to submit any follow up information to her.
- H. Council Member Morson replied to Ms. Hastings in an email dated January 30, 2022. In his email, Council Member Morson reiterated that he would not meet with Ms. Hastings unless the conditions listed in his previous email were met. Council Member Morson's January 30, 2022 email contained the following statement: "But for some strange, mysterious, and camouflage reason and a hidden agenda, Jay Strobel, city manager, Jim Thomson, City Attorney, and Lisa Jacobson, mayor, collectively conjured up and found it necessary to advance this complaint forward, wasting taxpayers funds by launching this senseless investigation."
- I. The City Attorney provided a redacted copy of the complaint to Council Member Morson on February 8, 2022.
- J. Council Member Morson ultimately declined to meet with Ms. Hastings.

- K. On February 16, 2022, Ms. Hastings submitted her Investigative Report to the City Manager and City Attorney. Among other things, Ms. Hastings found as follows:
1. Council Member Morson subjected the complainant to unwelcome physical touch that made her feel uncomfortable at a work meeting when he stood behind her chair, bent over her chair, and whispered into her ear while rubbing the back of her shoulders and neck.
 2. The incident referenced in the complaint occurred a few days after Council Member Morson sent an email to the employee accusing her of being inconsiderate and disrespectful to him and that her behavior was unacceptable.
 3. After being made aware that a female employee had filed a complaint against him, Council Member Morson blind copied the complainant on a lengthy email to the City Manager. The email referenced the incident that was the subject of the complaint. Receiving a blind copy of the email caused the complainant to feel intimidated and singled out.
 4. Council Member Morson was trained on January 2, 2021, as part of the Brooklyn Park City Council orientation. The training materials from the orientation show that he was trained on respectful workplace principles, including the prohibition against harassment and unwelcome physical touch.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK, MINNESOTA AS FOLLOWS:

1. The City Council formally censures Council Member Boyd Morson for violating Section 7.12 of the City of Brooklyn Park's Respectful Workplace policy by engaging in unwanted and unwelcomed personal touching towards a City employee that interfered with her work performance and created an intimidating, hostile and offensive work environment.
2. The City Council formally censures Council Member Boyd Morson for violating Sections 6.1.2 and 6.2 of the Elected Official Code of Conduct by engaging in disrespectful behavior towards a City employee and by sending emails containing belligerent, impertinent, abusive, and disparaging comments to her.
3. Council Member Morson is removed from his 2022 liaison appointments to, and his 2022 membership on, all City commissions, committees, task forces, boards, and associations.
4. Until further notice, Council Member Morson shall have no direct communications with City employees other than the City Manager or, with respect to EDA matters, the EDA Executive Director. Any communication from Council Member Morson, whether verbal or written, must be addressed to the City Manager or, with respect to EDA matters, the EDA Executive Director with a copy to the City Manager.
5. Council Member Morson's future public statements, whether verbally, by email, or on social media, with respect to City officials and employees must be professional and not belligerent, impertinent, abusive, or disparaging.

BE IT FURTHER RESOLVED that Council Member Morson shall be provided with the opportunity for training, education and counseling on the matters referenced in this Resolution. If Council Member Morson completes such training, education, and counselling, the City Council will consider lifting the restrictions set forth in paragraphs 3 and 4 of this Resolution.

BE IT FURTHER RESOLVED that the City Council hopes that Council Member Morson modifies his conduct and behavior so that he can be an effective and productive member of the Brooklyn Park City Council.

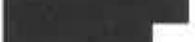
INVESTIGATIVE REPORT
CITY OF BROOKLYN PARK
COUNCIL MEMBER BOYD MORSON
FEBRUARY 16, 2022

CONFIDENTIAL
SUBJECT TO ATTORNEY / CLIENT PRIVILEGE

BY
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FEBRUARY 16, 2022

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**INVESTIGATIVE REPORT
EXHIBITS**

- A. Notice to Complainant – [REDACTED]
- B. Email communication between [REDACTED]
[REDACTED]
- C. Incident notes prepared by [REDACTED]
- D. Email communication from [REDACTED] to [REDACTED], [REDACTED]
[REDACTED], and James Thomson dated January 20, 2022
- E. Email communication from [REDACTED]
[REDACTED]
[REDACTED] Email communication and voicemails from [REDACTED]
[REDACTED]
- G. Brooklyn Park Employee Handbook
- H. Brooklyn Park Elected Officials Rules of Procedures and Code of Conduct
- I. Brooklyn Park City Council Orientation training
- J. Email communication from Mayor Lisa Jacobson to Boyd Morson dated January 27, 2022
- K. Email communication between Kristi Hastings and Boyd Morson dated January 27, 2022
through February 10, 2022
- L. Email communication from James Thomson to Boyd Morson dated February 8, 2022

**CITY OF BROOKLYN PARK
INVESTIGATIVE REPORT**

I. BACKGROUND OF INVESTIGATION

This is a report of an investigation into allegations of misconduct against Council Member Boyd Morson. The investigation was authorized by the City of Brooklyn Park City Manager, Jay Stroebel, on January 27, 2022.

In summary, the reports allege that Morson on several occasions aggressively communicated by email with city employee [REDACTED] and that he engaged in some level of unwanted physical contact with [REDACTED]

II. DOCUMENTS REVIEWED

All documents reviewed are attached to this report as exhibits.

III. INVESTIGATION

Investigative interviews were conducted on Monday, February 7, 2022, at the City Offices in Brooklyn Park, Minnesota. The interviews were as follows: [REDACTED]
[REDACTED]. The record was closed on February 16, 2022.

IV. FINDINGS AND CONCLUSIONS

1. Boyd Morson is a member of the Brooklyn Park City Council.

3. [REDACTED] Morson engaged in behavior that made [REDACTED] feel uncomfortable at [REDACTED] when he forcefully [REDACTED]

[REDACTED] account of the matter is credible despite corroborating testimony for many reasons:

- a. [REDACTED] summarized her concerns in an email to herself the day of the incident. The summary in her email matches the statement she provided in this investigation.
- b. [REDACTED] is a clear and concise communicator. She gains nothing by raising her concerns regarding the interaction with Morson.
- c. [REDACTED] went to her supervisor the day after the incident and made a timely report.
- d. Other attendees were busy [REDACTED]
- e. Morson's actions after [REDACTED] submitted her complaint lend credibility to [REDACTED] statement, in particular the email that he [REDACTED]

- f. Morson did not submit to an interview, so the conclusions reached in this investigation are done without the benefit of his statement.
4. The City of Brooklyn Park maintains an employee handbook that includes a Respectful Workplace Policy. See Exhibit G, Section 7.12. The policy applies to elected officials, employees, and others connected to the city. The policy prohibits offensive behavior and harassment including unwelcome physical touch.
 5. The City of Brooklyn Park also maintains an Elected Official Code of Conduct which includes expectations surrounding treatment of staff by elected officials. See Exhibit H, Section 6.1.2 and 6.2. Under the Code of Conduct, elected officials are to treat city employees professionally and "belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments" against employees are prohibited.
 6. Morson was trained on January 2, 2021, as part of the Brooklyn Park City Council orientation. The training materials from the orientation show that Morson was trained on respectful workplace principles including the prohibition against harassment and unwelcome physical touch. See Exhibit I.
 7. Councilor Morson violated the City of Brooklyn Park's Respectful Workplace policy and the Elected Official Code of Conduct in his treatment of [REDACTED]. Morson subjected [REDACTED] to unwelcome physical touch when he stood behind her chair, bent over her chair, and whispered into her ear while rubbing the back of her shoulders and neck. Further, Councilor Morson violated city policy when he [REDACTED], causing her to feel intimidated and singled out. See Exhibit E.

Dated: February 16, 2022

By 

Kristi A. Hastings, Investigator
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**CITY OF BROOKLYN PARK
INVESTIGATIVE REPORT**

V. INTERVIEW SUMMARIES

All witnesses were reminded to maintain the confidentiality of our conversations due to the seriousness of the allegations and the need to preserve the integrity of the investigation.

[REDACTED]

On Monday, February 7, 2022, I met with [REDACTED] in the City Offices at the City of Brooklyn Park in Brooklyn Park, Minnesota. A Tennessee Warning was read to [REDACTED]. She indicated an understanding of the terms and signed the form, which is attached as Exhibit A.

[REDACTED]

In her role, [REDACTED] interacts with the City Council members when she is asked to provide reports to the council or seek approval from the council for projects. The council sends a liaison to the [REDACTED] and, from time-to-time the department also [REDACTED] to work on special issues and the council would typically send a representative to serve on the task force, too.

In January of 2021, Boyd Morson was elected to the city council. [REDACTED]

[REDACTED]

[REDACTED] working relationship with Morson was difficult at times. Morson tends to ask a lot of questions during meetings and his manner "borders on insulting" at times. She does not mind at all that he has questions. It is more of an issue with the way he asks them and the way that he interrupts people when they are trying to answer the myriad of questions that he peppers city employees with during meetings. Morson tends to show frustration when he is not getting the answer that he seems to want from employees. When she knows that Morson is going to be at a meeting, [REDACTED] prepares herself carefully. She tries to anticipate what questions he might ask and have access to as many answers as possible. She steels herself for the way that he asks questions, interrupts, and speaks to employees. The situation has been "manageable" for [REDACTED]. The night that [REDACTED] was introduced to the city council (at an open meeting) [REDACTED] there was another employee who was also introduced to the council. The employee was a young woman working in her first professional position. When she went to shake Morson's hand, he did this "weird hip shake thing" where he stuck out his hip to the employee to give her a "hip bump." It struck [REDACTED] as entirely inappropriate. She remembers thinking that it was "ew," and "icky." She felt uncomfortable for the young female employee. [REDACTED] was careful with her own body language as she was introduced. She stood firm and extended her hand briskly

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FEBRUARY 16, 2022

to Morson. She did not want him to think that she was open to any type of "hip bump" from him. This interaction would be on video from the meeting.

[REDACTED]

Respectfully,

Boyd Morson
Council Member / Central District
W. 763-493-8040 C. 763-327-0100
"Proudly Serving You and the Community"

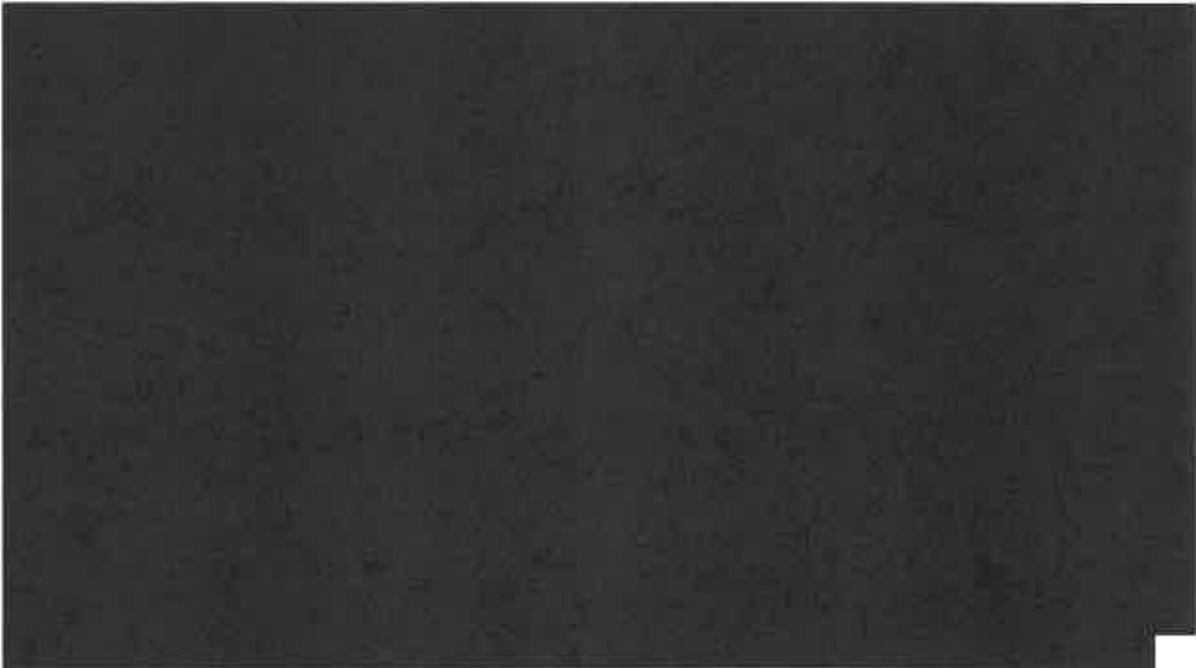
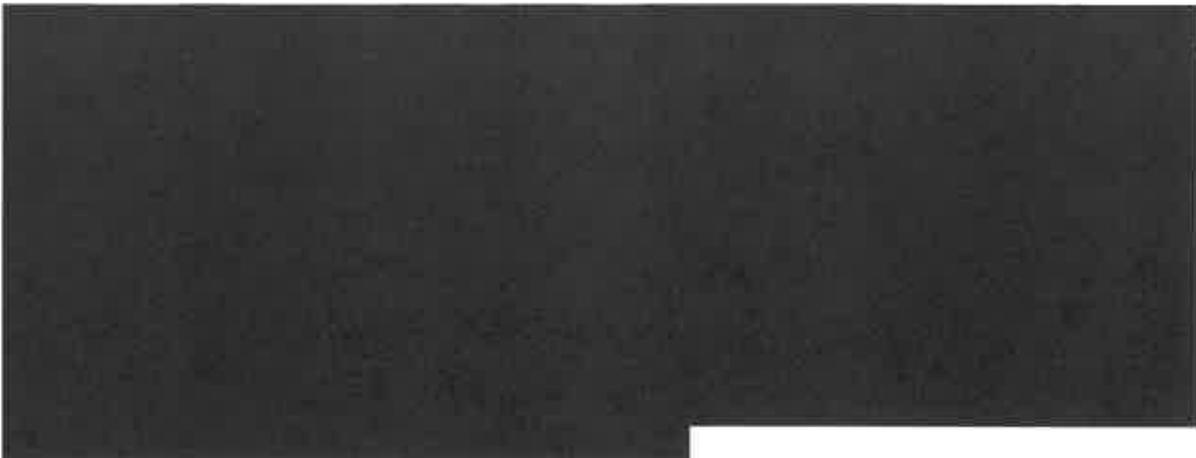
See Exhibit B.

[REDACTED] was stunned by the email from Morson. [REDACTED]
[REDACTED] was appreciative that [REDACTED] intervened. She wanted to just move forward from the issue and not have it "blow up" into something bigger. If the situation had ended at this point, she would have been comfortable in her interactions with Morson.

The following week, [REDACTED] and [REDACTED] spent a considerable amount of time preparing for an upcoming meeting [REDACTED]

[REDACTED]

[REDACTED]



Later, [REDACTED] asked [REDACTED] if she saw Morson shaking her hand or [REDACTED] or if she saw Morson put his hands on her, and [REDACTED] said that she was busy and had not noticed that. [REDACTED] also later asked [REDACTED] if he saw it, and he had not been watching them either. She did not ask [REDACTED] or [REDACTED].

When [REDACTED] got home she saw her son sitting on the couch. She sat down next to him and asked him how his day went. He said that they had worked on a [REDACTED] project ([REDACTED]). [REDACTED] He said that it was not fun holding his arms above his head all day long. [REDACTED] responded, "Do you know what isn't fun? I bet you weren't sexually harassed at work today!" and then she burst into tears for the first time. She felt like a dam broke and she sobbed. She told her son what happened at the meeting with Morson. Her husband came into the room and sat down and asked her what was going on. She told him about Morson leaning over her, whispering in her

ear, and touching her shoulders and neck in a way that made her very uncomfortable. Her husband was upset. [REDACTED] was angry and filled with panic because she knew that Morson, as a member of the council and [REDACTED], was a powerful person. She felt her chest tighten and her throat constrict. She pulled out her phone and, [REDACTED], wrote herself an email and sent it to her work email address describing what had happened. See Exhibit C. She wrote:

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject:

Harassment

[REDACTED]

I want the physical contact [REDACTED] documented in the event that it should continue or there should be additional threats made against me. This behavior is not welcome or appreciated. It is inappropriate. I understand that in my role, that I am to be respectful of elected officials and not respond in kind when I am spoken to in that matter. I follow that direction willingly. I am not willing to submit to unwanted or extended physical contact from a council person, [REDACTED]

On the morning of [REDACTED]

[REDACTED] See Exhibit D. [REDACTED] told [REDACTED] that he or [REDACTED] would be in touch with her about next steps and this investigation flowed from her complaint.

[REDACTED] later met with human resources to share her concern that Morson would retaliate against her when/if he found out about the complaint. She was worried about Morson's status as a council member and concerned for her employment.

[REDACTED]

[REDACTED] felt fearful when the email came through. She was a little angry before, but the [REDACTED] email caused her fear for herself and her job. She felt threatened and retaliated against for raising her concerns about Morson and his behavior [REDACTED]

[REDACTED] She thinks that he is trying to silence her through fear and intimidation. See Exhibit E.

[REDACTED] has thought about just resigning her employment because she feels unprotected. She never wanted to be in a "spot" like this in her professional life. She has connected with the city's employee assistance program for support. [REDACTED] staff have noticed that she is stressed and have asked her what is going on. She has not shared anything with them.

[REDACTED] believes that Morson's intent was to intimidate her. She has observed him interact with male employees. She has not seen Morson put his hands on male staff. She has not observed him whispering in the ear of male staff. She has watched him use the "power handshake" with [REDACTED] like he had initially done with her [REDACTED] also notes that on two prior occasions, Morson did things that made her a little unsure of his intentions. [REDACTED]

[REDACTED] thought the situation was "odd," but she went on with her day. Another time there was a [REDACTED]

Again, [REDACTED] thought this was odd behavior.

[REDACTED]

[REDACTED]

On Monday, February 7, 2022, I interviewed [REDACTED] by phone. A Tennessee Warning was read to [REDACTED]. He indicated an understanding of the terms.

[REDACTED]

[REDACTED]

On Monday, February 7, 2022, I interviewed [REDACTED] by phone. A Tennessee Warning was read to [REDACTED]. She indicated an understanding of the terms.

[REDACTED]

[REDACTED]

[REDACTED] provided the Brooklyn Park Employee Handbook and the Brooklyn Park Elected Officials Rules of Procedures and Code of Conduct. *See* Exhibits G and H. He also shared training slides from the Brooklyn Park City Council Orientation training when Councilor, Boyd Morson, joined the council. It was presented to the council on January 4, 2021. *See* Exhibit I.

E. BOYD MORSON

On the morning of Thursday, January 27, 2022, City of Brooklyn Park Mayor, Lisa Jacobson, notified Councilor Boyd Morson of a complaint that was filed by a city employee involving possible inappropriate conduct. *See* Exhibit J.

From: Lisa Jacobson <Lisa.Jacobson@BrooklynPark.Org>
Sent: Thursday, January 27, 2022 9:10 AM
To: Boyd Morson <Boyd.Morson@brooklynpark.org>
Cc: Jay Stroebel <Jay.Stroebel@BrooklynPark.Org>; jthomson@Kennedy-Graven.com
Subject: Important Matter

Council Member Morson,

City Manager Stroebel received a complaint from a city employee about a matter involving possible inappropriate conduct by you. Pursuant to the procedure set forth

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FEBRUARY 16, 2022**

in the Code of Conduct for Elected Officials, the City Manager and I reviewed the complaint and consulted with the city attorney. We have concluded that an independent investigation into the matter is warranted.

Kristi Hastings, an attorney with the Pemberton Law Firm, will be conducting the investigation. Ms. Hastings will be in contact with you.

Lisa Jacobson
Mayor

On that same day, in the afternoon, I reached out to Councilor Morson by email with a date and time available for an interview. Morson responded the next day stating he was unwilling to meet with me, "Unless, until, and in advance," with a list of requests. His response below:

From: Boyd Morson Boyd.Morson@brooklynpark.org
Sent: Friday, January 28, 2022 10:49:22 PM
To: Kristi Hastings k.hastings@pemplaw.com
Cc: Kari Nelson k.nelson@pemplaw.com
Subject: RE: Pemberton Law

Kristi,

I have received your email. However, I am unwilling to meet with you. Unless, until, and in advance, I receive all of the following;

1. A mutually agreed upon time. A respected and established in advance a mutual time, that works for the both of us. Not a date and time, that you, just set for me without my consent.
2. A copy of the alleged written and alleged filed complaint with complainant's name, date, signature affixed, along with the nature of his/her alleged complaint contained within. A summary outlining exactly the reason/s describing their alleged written complaint allegations.
3. An explanation of who asked you or hired you to contact me? Was it the city or the alleged staff/complainant?
4. Until all these things are provided and met in advance. There will be "NO" meeting granted, period without any valid and provided proof.

Respectfully,

Boyd Morson
Council Member/Central District
W. 763-493-8040

Each time I responded to his email correspondence to answer his questions and request an interview date and time, Morson continued to demand a copy of the complaint and refused to meet with me until he received one. He also requested for me to provide him with, "the written law,

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FEBRUARY 16, 2022

ordinance, rule, policy, or statutes that support your repeated action to deny me information in advanced..." He was offered the opportunity to review the written complaint in a meeting with me. Email correspondence with Morson continued through February 4, 2022. See Exhibit K. My final communication with Morson was an email on Thursday, February 10, 2022, where I attempted to confirm a meeting with Morson one final time, and I received no response.

I conferred with city attorney, James Thomson, Kennedy & Graven law firm, regarding the repeated request of the complaint document by Morson. On Tuesday, February 8, 2022, Morson was emailed a redacted copy of the complaint document. See Exhibit L.



NOTICE TO COMPLAINANT

Name of Employee: [REDACTED]

1. My name is Kristi A. Hastings, and I am an attorney licensed in the state of Minnesota. My contact information is: Pemberton Law Firm; 110 North Mill Street, Fergus Falls, MN 56537; 218-736-5493.
2. I have been hired by the City of Brooklyn Park to conduct an investigation into allegations of misconduct.
3. The information collected may be used by the city in administrative proceedings such as grievance procedures, termination proceedings or other disciplinary proceedings. The information may also be used in civil litigation.
4. You are not legally required to provide any private or confidential information regarding yourself during this interview.
5. To preserve the integrity of the investigatory process, you are directed not to speak with anyone about the content of this interview or the investigation except with your legal or union representative.
6. If you fail or refuse to provide information in the interview this may result in your complaint with the city being dismissed or in the city being unable to adequately investigate the matter.
7. You may ask to have a representative present during the interview.
8. You must inform the city's attorney if you are represented by an attorney, whether or not you wish to have your attorney present at the interview.
9. The information which you provide during this interview may be released to law enforcement officials or other individuals directly or indirectly involved in the matter(s) discussed, including other employees who have or may have witnessed or been involved in any of the events discussed or any employee(s) alleged to have engaged in the inappropriate conduct and their representatives. In addition, this information may be provided to the city or agents of the city.

By signing below you acknowledge that you have been given an opportunity to read this Notice prior to being interviewed. A copy will be provided to you upon request.

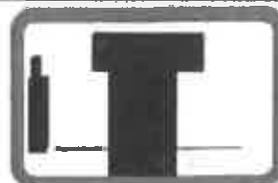
Dated: [REDACTED]

[REDACTED]

Representative

Subject:

[REDACTED]



[REDACTED]



From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject:



Harassment

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] I feel singled out by CM Morson personally. [REDACTED]
[REDACTED]

[REDACTED] This behavior is not welcome or appreciated. It is inappropriate. I understand that in my role, that I am to be respectful of elected officials and not respond in kind when I am spoken to in that matter. I follow that direction willingly. [REDACTED]
[REDACTED]

[REDACTED]



From: [REDACTED]
Sent: Thursday, January 20, 2022 8:47 PM
To: Mike Freske; Wokie Freeman-Gbogba; Jay Stroebel; Thomson, James J.
Subject: Description of the incident [REDACTED]

Jay, Mike, Wokie, and Jim,

Below are the initial notes I took about the incident that happened with Council Member Morson [REDACTED]. I would like to add that [REDACTED] I am [REDACTED] confident in my ability to navigate difficult situations, I perceived Council Member Morson's behavior to be intentionally intimidating. His behavior to me has been often rude and argumentative, but is not unexpected based on what I have seen others experience. I anticipate and prepare for this so that I can best represent the work of my team to him as a member of the Council and the community. I work to find the truth in what he says and look past other negative comments and interactions.

[REDACTED]

[REDACTED] I had a mild panic attack [REDACTED] and shared what had happened with my husband more out of anger than anything else.

If you need additional information from me, please let me know.

Thank you,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

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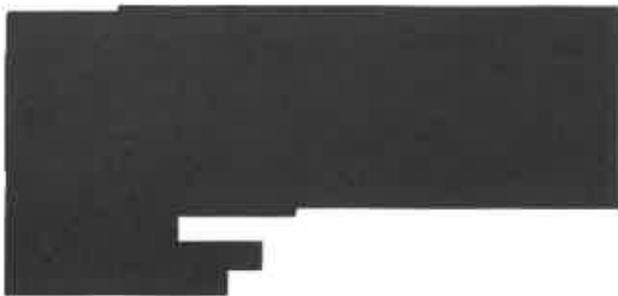
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Employee Handbook

**Brooklyn
Park**



Unique.
United.
Undiscovered.

August 2019

EMPLOYEE HANDBOOK

City of Brooklyn Park

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WELCOME TO THE CITY OF BROOKLYN PARK

We are happy to have you here!

We hope your employment with the City is an enjoyable and satisfying experience. Over the years, we have found that the success and strength of our operation comes through the dedicated effort put forth by our employees.

Whether you are a new member of our organization or a seasoned veteran, we welcome your suggestions for continued improvement to help us better serve our community, residents and your fellow co-workers.

This Employee Handbook is intended to be a general guide to help you understand the City of Brooklyn Park's policies, practices and expectations. I encourage you to spend some time becoming familiar with our rules, procedures and benefits.

We are pleased you have chosen the City of Brooklyn Park as your place of employment. Our employees are the most important investment that Brooklyn Park residents have made in their community!

Jay Stroebel
City Manager



SECTION 1 INTRODUCTION TO THE HANDBOOK

Purpose

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Brooklyn Park. They should not be construed as contract terms. 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.

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

Scope

These policies apply to employees of the City. Some policies may not be available to employees, depending upon eligibility requirements, such as:

1. Elected Officials;
2. City Attorney;
3. Members of City Boards, Commissions and Committees;
4. Consultants and Contractors;
5. Temporary Seasonal Employees;
6. Paid On-call/ Duty Crew Firefighters;
7. Volunteers.

If any specific provisions of the Personnel Policies conflict with any collective bargaining agreement or civil service rules, the collective bargaining agreement or civil service rules will prevail. Any policy or portion thereof, which does not conflict with a collective bargaining agreement, will remain in full force and effect and will continue to govern the actions of all covered employees. Nothing in these policies is intended to modify or supersede any applicable provision of state or federal law.

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. Contact your supervisor for more information.

EEO Policy Statement

The City of Brooklyn Park is committed to providing equal opportunity in all areas of employment, including but not limited to hiring, demotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Brooklyn Park will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, disability, age, marital status, status with regard to public assistance, or membership on a local human rights commission.

HISTORY OF OUR CITY

The city of Brooklyn Park, Minnesota is a Minneapolis suburb in northeast Hennepin County bounded by the cities of Brooklyn Center, Champlin, Crystal, Maple Grove, New Hope and Osseo.

The Mississippi River forms a natural boundary along the city's entire eastern edge. The city's proximity to Minneapolis and Saint Paul has contributed significantly to residential growth and development. Brooklyn Park is the fourth largest city in the St. Paul/Minneapolis metropolitan area and the sixth largest city in the state of Minnesota. The city incorporates an area of approximately 27 square miles.

What is now Brooklyn Park was part of the Fort Snelling military reservation in the early nineteenth century. In 1852, the Territorial Legislature of Minnesota established Hennepin County. That same year, six years before Minnesota became a state, Esra Hanscom established his homestead near where Shingle Creek crosses Noble Avenue.

In 1853 and 1854, settlers from Michigan staked claims in the area and named it Brooklyn Township after their home territory of Brooklyn, Michigan. On May 11, 1858, the first town meeting was held at the Hanscom home and township officers were elected.

Brooklyn Park has been a municipal corporation since 1954; its current Home Rule Charter was adopted October 9, 1969.

HOW THE CITY OPERATES

Brooklyn Park adopted the City Charter by referendum on September 9, 1969, which was effective October 9, 1969.

The City Charter established a Council-Manager form of government. The Council exercises the legislative executive power of the City and determines all matters of policy. The Council is responsible for City administration, but exercises this control through the City Manager.

The City Council

The City Council is composed of a Mayor and six Council members. The Mayor is elected at-large and two Council members from each of the three Districts (East, Central, and West) are elected on a non-partisan basis to serve staggered four-year terms. The Mayor is also elected for a four-year term and presides at Council meetings and acts as the ceremonial head of the City. Local elections are held in even-numbered years.

Appointment and removal of the City Attorney and City Manager is the Council's responsibility as prescribed by the City Charter.

The City Manager

As the sole employee of the City Council, the City Manager serves at the will of the City Council and is responsible for the effective administration of City business in accordance with Council decisions and the City Charter. The City Manager has the authority to appoint and remove employees as specified by the City Charter. Appointment or removal of the City Clerk and all Directors made by the City Manager shall become final only upon approval of the City Council.

The City Manager proposes, prepares and submits to the Council in accordance with the Charter an annual budget and other reports as prescribed by the City Charter or by the City Council.

Department Directors and Division Managers

Directors and Division Managers are responsible for the efficient and effective performance of day-to-day City operations as directed by City Council through the City Manager.



SECTION 2 ORGANIZATIONAL STRUCTURE

The City of Brooklyn Park is a Council-Manager form of government. The City Manager is the sole employee of the Council and is responsible for implementing policy established by the City Council and ensuring the successful management of all City operations, from street and park maintenance to economic development and public safety. The City Manager appoints and the City Council approves directors to lead City departments.

The organization has two internal service departments, Administration and Finance, and five external service departments, Community Development, Fire, Operations and Maintenance, Police, and Recreation and Parks.

ADMINISTRATION

The Administration Department implements policy established by the City Council and develops procedures to ensure that our City government operates within the boundaries of prudence and ethics as set forth in the City Charter and the Code of Ordinances. The department consists of the following divisions: City Manager, City Clerk, Communications, Community Engagement, Human Resources, and Information Technology Services (ITS).

COMMUNITY DEVELOPMENT

The Community Development Department is dedicated to improving the physical, social and economic health of the community. The divisions within the department provide neighborhood services to promote and preserve residential and commercial area, provide for the administration of health and safety programs, promote sound development and reinvestment projects, and provide for the long range planning and forecasting for the community. The department consists of the following divisions: Economic Development and Housing, Planning, Environmental Health, Building, and Rental and Business Licensing.

FINANCE

The Finance Department is committed to providing quality support services to other departments of the City and excellent customer service to citizens and various customer groups. In addition, the department is committed to safeguard and facilitate the optimal use of the City's financial and informational resources. The department's divisions include: Financial Services (budget, audit, general accounting and debt and investment management), Assessing (property evaluation/taxation), Customer Services (utility billing, vehicle licensing and special assessments), and the Department of Motor Vehicles (DMV).

FIRE

The Brooklyn Park Fire Department is a full-service public safety agency that provides professional fire protection, emergency medical, rescue, hazardous materials, public education, community risk reduction, fire/life safety inspections, and code enforcement. The department consists of the following divisions: Fire Administration, Fire Operations, Fire Marshal, Professional Standards, and Emergency Management.

OPERATIONS AND MAINTENANCE

The Operations and Maintenance Department focus is to ensure safe, long-lived, reliable, attractive infrastructure systems, with quality construction, that results in economical operations, low-cost maintenance and continual improvement. The department consists of the following divisions: Engineering, Support Services-Recycling, Park-Building Maintenance, Street-Fleet Maintenance, and Utilities Maintenance.

POLICE

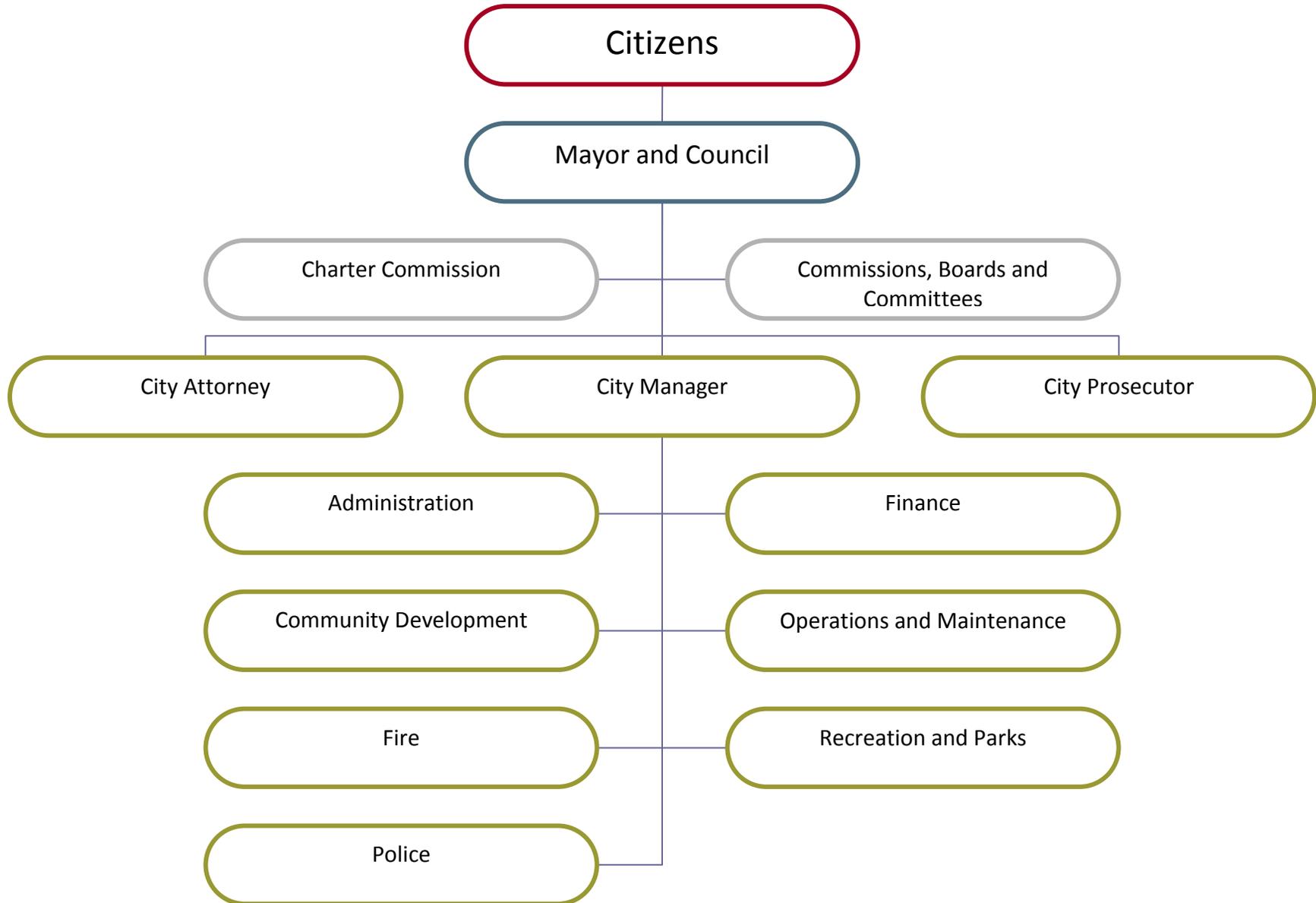
The Police Department delivers public safety services with the highest level of professionalism, knowledge, and skill. The organizational culture and business practices of the Police Department promote personal accountability, innovation, informed leadership, and community engagement. The department has two precincts in the city with Police Support Services, Patrol Services, and Investigations divisions.

RECREATION AND PARKS

The Recreation and Parks Department offers extensive recreation programming, well-maintained facilities, beautiful parks, a great trail system and quality leisure opportunities for all ages. The divisions within the department are Recreation Administration, Recreation Programming, Youth Services, and Parks and Facilities.

City Of Brooklyn Park, Minnesota

Organizational Chart



Employee Handbook
Section 2
Page 3



SECTION 3 DEFINITIONS

ABSENT WITHOUT LEAVE: Any employee absence from duty that is not authorized.

ANNIVERSARY DATE: The date an employee first performs service in a regular full- or part-time position. This date is used exclusively for service credit calculations.

APPOINTING AUTHORITY: The City of Brooklyn Park City Manager.

AT-WILL EMPLOYMENT: New, promoted or transferred employees who are on probation and may be terminated by the City with or without cause, subject to the rights of veterans and any applicable collective bargaining agreement (CBA) provision.

BASIC WORK WEEK: The number of hours an employee is regularly scheduled to work.

CALENDAR WEEK: A consecutive period of seven days beginning at 12:01 a.m. Saturday, unless stated otherwise by union contract.

CALL BACK: When an employee is called to duty during off-duty time.

CLASSIFICATION: Assigning a position to its appropriate pay grade based on the duties and responsibilities of the position.

CLASSIFICATION SYSTEM/PLAN: The system of classifying positions into an organized pay grade by grouping and organizing positions according to duties and responsibilities.

COLLECTIVE BARGAINING AGREEMENT (CBA): A written contract for a specified period of time that defines the terms and conditions of employment and procedures for dispute resolution between the management of an organization and the exclusive representative of a group of employees.

CONTINUOUS SERVICE: Uninterrupted service period with the City. Continuous service shall not be considered broken if the employee is:

1. on military leave of absence and returns in accordance with federal and state law; or
 2. on an authorized leave of absence or temporary suspension without pay.
- However, no credit shall be allowed when suspended or on leave without pay for over thirty (30) consecutive calendar days, except when leave without pay results from an

on-the-job injury. For purposes of vesting and eligibility to participate in pension and other retirement plans, a Family and Medical Leave of Absence does not constitute a break in service.

DEMOTION: Movement of an employee to a position with a lower pay grade or lower step in the existing pay grade.

DIRECTOR: Employee appointed by the City Manager and approved by the City Council to manage a department consisting of one or more divisions (also called Department Director).

DUTY CREW: Firefighter/EMT scheduled personnel used to staff fire stations 24 hours per day.

EMPLOYEE: A person hired to perform assigned duties for wages or salary and who is not an independent contractor.

EMPLOYEE CLASSIFICATION: Definitions that describe the number of hours an employee is usually scheduled to work and are used for determination of benefit eligibility. The employee classifications are:

1. Regular Full-time Benefited
2. Regular Part-time Benefited
3. Regular Part-time/Intermittent Non-benefited
4. Seasonal/Temporary

EXEMPT EMPLOYEE: A salaried employee who, in accordance with FLSA or similarly treated under Minnesota laws, is “exempt” and thus not subject to portions of the wage and hour provisions of those laws.

FAIR LABOR STANDARDS ACT (FLSA): Federal law outlining basic provisions for employment, including minimum wage, overtime, equal pay, record keeping, etc.

GRIEVANCE: An employee complaint as defined in policy or in a CBA regarding the terms and conditions of employment. If there is an applicable CBA, only that grievance procedure and definition shall apply.

HIRE DATE: The first date of employment in any City position.

HR: The Human Resources Division and/or employees responsible for employee benefits, personnel records, employee retention and recruitment, loss control and risk management.

INSUBORDINATION: The refusal to submit to authority or follow the directive of a supervisor.

IPAL: The acronym for the City’s operational values: Inclusion, Partnership, Accountability, and Learning.

LEAVE OF ABSENCE: Approved periods of time, which may be paid or unpaid, such as Family and Medical Leave, leave without pay, and personal leave.

MANAGER: Division-level supervisor responsible for one or more activities and reports to the Department Director (also called Division Manager).

NON-EXEMPT EMPLOYEE: Generally, an hourly employee as defined by the FLSA or similarly treated under Minnesota laws and subject to the wage and hour provisions of those laws.

ON-CALL: A defined period of time that an employee is required to "remain available" to be called into work after regular working hours and weekends.

ORGANIZATIONAL CHART: A list of positions in the City and the formal relationship of those positions to other positions within the City.

OUTSIDE EMPLOYMENT: Employment or independent contracting of any kind with an employer other than the City engaged in by an employee on a regular, part-time or full-time basis for which compensation is received from another source.

OVERTIME: Hours worked in excess of the basic work week of forty (40) hours, unless specifically stated in union contract.

PART-TIME/INTERMITTENT NON-BENEFITED EMPLOYEE: Employees working less than 20 hours per work week who may or may not have a set schedule and are not benefit eligible.

PAY GRADE: A specific pay range in the pay plan determined by the job classification.

PAY PERIOD: The 14 days beginning every other Saturday through the next Friday.

PAY PLAN: A schedule of pay grades for positions within the organization.

PAY RANGE: The minimum and maximum pay rates established for each pay grade.

PAYROLL YEAR: Consists of 26 bi-weekly pay periods in a calendar year.

PERFORMANCE REVIEW DATE: The annual performance review date is determined by the effective date of hire, transfer or promotion.

POSITION DESCRIPTION: A summary of the responsibilities of a position which includes the job title, department, job classification, pay grade, and Federal Labor Standard Set Classification.

PRIVATE DATA: Data that is not accessible to the public but is accessible to the subject of the data according to Minnesota Government Data Practices Act.

PROBATIONARY EMPLOYEE: An employee who has not completed the required provisional period in the employee's first, transfer or promotional position with the City.

PROBATIONARY PERIOD: The one-year duration of time that a new, promoted or transferred employee must serve to determine if work performance and attendance standards can be met.

PROMOTION: Movement of an employee to a position with a higher pay grade.

PUBLIC DATA: Data available for public viewing, or accessible to the public in accordance with applicable federal, state or local policies and procedures, according to the Minnesota Government Data Practices Act.

RECLASSIFICATION: Movement of a position from one pay grade to another pay grade because of a significant change in the position's duties and responsibilities.

REGULAR FULL-TIME BENEFITED EMPLOYEE: Employees normally employed on a regular schedule of forty (40) or more hours per week, every week, and are eligible for benefits that apply to their status and position, subject to terms, conditions and limitations of each benefit program.

REGULAR PART-TIME BENEFITED EMPLOYEE: Employees usually scheduled to work 20-39 hours per week and are eligible for pro-rated sick and vacation time, including benefits that apply to their status and position, subject to terms, conditions and limitations of each benefit program.

SALARY PLAN: An orderly plan for compensating employees using job classifications, grades, steps within grades, time within grades and job performance as a basis for the rate of compensation for each position.

SEASONAL/TEMPORARY EMPLOYEE: An employee with a work schedule that has a definite start and end date based on a season or project, consistent with the Public Employment Labor Relations Act, specifically Minn. Stat. §179A.03 subd. 14(f) as amended and/or labor union contract. Seasonal/temporary employment positions are not benefit-eligible and do not earn service credit.

SENIORITY: An employee's length of continuous regular full-time or part-time employment within a department, unless otherwise defined by a collective bargaining agreement.

SERVICE CREDIT: Consecutive (no break in employment) time worked for the City in regular full- or part-time positions only.

SEVERANCE: Payments that may be paid by the City upon the resignation of an employee who is in good standing after one year of employment.

SUSPENSION: The temporary removal of an employee from their designated position for disciplinary purposes.

TERMINATION: A complete separation from employment resulting from discharge, voluntary resignation, retirement or death.

TERMINATION DATE: The last day an employee is on the payroll for the City.

TRANSFER: Lateral movement of an employee to a different position.

VETERAN: A U.S. citizen or a resident alien who has been separated under honorable conditions from any branch of the U.S. armed forces after having served on active duty for 181 consecutive days or by reason of disability incurred while serving on active duty, or who has met the minimum active duty requirement as defined by U.S. CFR, Title 38, Section 3.12a, as amended or who has active military service certified under section 401, Public Law #95-202 as amended. The active military service must be certified by the U.S. Secretary of Defense as active military service and a discharge under honorable conditions must be issued by the Secretary.



SECTION 4 GENERAL EMPLOYMENT PRACTICES

4.01 ATTENDANCE AND HOURS OF WORK

City Hall is open five days per week, Monday through Friday, from 8 a.m. to 5 p.m. Hours may vary at other City facilities. Certain jobs, such as police officer and firefighter, require 24-hour services and flexible work schedules determined by the Director and approved by the City Manager. Departments may have flexible work schedules approved by the Director. See Section 4.05. Collective bargaining agreements may also define hours of work.

Each employee is vital to the operation of the City. The City expects each employee to report to work on time. If an employee is late for work or must be absent, the employee must notify his or her supervisor as soon as possible, normally at least one hour prior to starting time. Excessive tardiness or absence may result in disciplinary action, up to and including discharge. Each employee must adhere to department and CBA requirements.

4.02 COLLECTIVE BARGAINING AGREEMENTS

Many employees belong to bargaining units represented by unions and are subject to collective bargaining agreements. The City Council has sole authority to enter into a collective bargaining agreement covering City employees. Nothing in this Handbook should be construed to be in conflict with collective bargaining agreements.

4.03 DISCIPLINE/CORRECTIVE ACTION

General Policy and Process

Disciplinary or corrective actions may be imposed for cause as deemed appropriate by the City. The City provides a system of progressive disciplinary actions to resolve work performance or standards of conduct and behavior deficiencies. Disciplinary forms are available in the Human Resources Division. The City reserves the right to waive progressive discipline. This policy does not apply to new, promoted and transferred probationary employees who may be disciplined in any manner, including discharge, at any time for any reason which does not violate the law, subject to the rights of veterans.

The forms of discipline identified are not meant to be inclusive, nor do they require the City to exhaust any particular step, in any particular order, or in any particular circumstance. The discipline imposed will be based upon the nature and severity of the cause and the surrounding circumstances. The City retains the sole discretion to determine what behavior warrants

disciplinary action and what type of disciplinary action will be imposed. Nothing in these personnel policies implies that any City employee has a property right to the job the employee performs or to any City employment.

Disciplinary documents that become part of an employee's personnel file shall be read and acknowledged by employee signature.

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, Department Director, Human Resources and/or the City Manager will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken. Employees may utilize the grievance process as indicated in the applicable CBA.

No Contract Language Established

This policy statement does not create contract language but only applies where there is no CBA governing disciplinary matters.

The following are descriptions of the types of disciplinary actions:

Oral Reprimand

An oral reprimand may be used where appropriate or when informal discussions with the employee's supervisor have not resolved the matter. A supervisor has the ability to issue oral reprimands without prior approval by the Department Director.

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

An oral reprimand is not subject to grievance.

Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the supervisor. There is no need for an oral reprimand before a written reprimand may occur.

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

An employee will be given a copy of the reprimand to sign acknowledging its receipt. An employee's signature does not mean the employee agrees with the reprimand. A written reprimand will be placed in the employee's personnel file.

Suspension With or Without Pay

A supervisor, with Department Director, HR, and City Manager approval, may suspend an employee without pay for disciplinary reasons. Suspensions may not exceed thirty (30) calendar days in one twelve (12) month period. The fact that an employee has been suspended without pay for 30 calendar days in a 12 month period does not prevent discharge of that employee within the same 12 month period.

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

The City may choose to place an employee on administrative leave pending an investigation.

Demotion and/or Transfer

An employee may be demoted or transferred by a Department Director. The employee must be qualified for the position to which they are being demoted or transferred.

Salary

An employee's salary may be withheld, postponed or decreased due to unsatisfactory performance.

Dismissal

Any employee, other than elected officials and new, promoted and transferred probationary employees, may be dismissed, subject to the rights of veterans, by the City Manager for cause. Probationary employees may be discharged at any time for any reason that does not violate the law. The reasons for a discharge will be documented in the employee's personnel file.

If the disciplinary action involves the removal of a qualified veteran, veteran's rights will be followed under current law unless modified by a CBA.

4.04 EMPLOYMENT OF RELATIVES

The City permits the employment of relatives except under the following circumstances:

- Where an employee directly or indirectly supervises a relative
- Where an employee is responsible for auditing the work of a relative
- Where a conflict of interest or the perception of a conflict could exist
- Where confidentiality concerns of the City could be compromised

The term "relative" when used in this policy means any two (2) or more individuals who reside in the same dwelling or are related to each other by blood, common law, marriage, or adoption where one of the individuals is the spouse, parent, grandparent, child, brother, or sister of the other.

The provisions of this section do not apply to the Police and Fire Departments.

Amended by Council Action

April 25, 2005

4.05 FLEXIBLE WORKPLACE PROGRAM

The Flexible Workplace Program provides alternative work arrangements for employees when in the interest of both the City and employee. A flexible workplace may be implemented at the discretion of and approval by the Director and the City Manager. The City Manager or Director may discontinue approved flex arrangements at any time for any reason.

Purpose of the Flexible Workplace Program

- 1) Provide a formal method to accommodate individual and unique employee needs.
- 2) Foster a positive, flexible work environment that meets employee needs and reinforces and recognizes positive communication and working relationships between employees and management.

Flexible Workplace Program is:

- 1) Not appropriate for every position or employee
- 2) Not a City-wide benefit or entitlement, and in no way changes the basic terms and conditions of employment with the City
- 3) Not a substitute for dependent or elder care

4.06 GRIEVANCE PROCEDURE

A disagreement may arise because an employee does not know, understand or agree with policy interpretations. Such dissatisfactions are commonly referred to as grievances. It is the policy of the City to address all grievances promptly and fairly.

Probationary employees do not have the right to grieve termination or disciplinary decisions since their employment is "at will" and may be terminated at any time for any reason at the discretion of the City, subject to Veteran's Preference. Employees covered by a collective bargaining agreement must follow the grievance procedure outlined in their respective agreement.

The employee and the City may mutually agree to modify the grievance procedure when both the employee and the City agree that it is the best interests of the employee and the City to do so. In addition, the City Manager may, at any step in the grievance procedure, refer a grievance to an independent decision maker (i.e. non-City employee) in any situation where, because of the nature of the grievance, it would not be appropriate for a City employee to act on the grievance.

Step #1 – The employee must initially discuss a grievance with his/her supervisor within twenty-one (21) days of when the alleged violation, discipline, or dispute occurred to see if the grievance can be resolved.

Step #2 – If the grievance is not resolved with the supervisor within ten (10) working days of the discussion with the supervisor, the employee must present the issue in writing within five (5) working days to the Director. The Director is required to investigate the grievance and provide a written decision within five (5) working days. This investigation may consist of, but is not limited to, gathering information from other employees involved, reviewing City policy, and any other action necessary to become familiar with the situation.

Step #3 – If the Director is unable to resolve the issue, the employee may submit a written appeal to HR that states the nature of the grievance, the facts on which it is based, the provision(s) of the personnel policies allegedly violated, the remedy requested, and the employee's reason for disagreement with the Step #2 decision within five (5) working days of the decision. After investigating the problem, HR will provide the parties concerned with a written decision within five (5) working days of the receipt of appeal of the Step #2 decision.

Step #4 – If the employee is not satisfied with the HR decision, the employee should submit the written grievance, the reasons for disagreement, and the HR decision within five (5) working days to the City Manager. After investigating the problem, the City Manager will provide the parties concerned with a written decision within five (5) working days of the Step #3 decision. The decision of the City Manager shall be considered final unless otherwise required by law or a CBA.

Waiver – If a grievance is not presented within the time limits set forth above, it will be considered waived. If a grievance is not appealed to the next step in the specified time limit or any agreed extension, 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 with 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 each party.

Employees shall be free from restraint, interference, discrimination or reprisal in presentation of grievances. Employees may be represented during any part of the grievance process.

4.07 HIRING GUIDELINES

Position Vacancy Announcement: Position vacancies are published by posting announcements in City Hall, on official bulletin boards, media sources and in any other manner HR deems advisable. Announcements specify the title and salary range of the position, the nature of the work to be performed, the qualifications required for the job, the time, place and manner of making application, the closing date for receiving applications, and other pertinent information.

Application Forms: General employment application forms require information covering training, experience, references, and other pertinent information. There may also be a supplemental

application for a vacancy. The appropriate applications must be completed and signed by the applicant.

Promotion: The City may fill vacancies by promoting regular full-time or regular part-time employees. Internal candidates will be considered when appropriate.

Selection of Candidates: Applicants are scored using a point system that measures qualifications for the position in accordance with veterans' preference statutes. Skills testing may also be performed. Based on scores, candidates are then chosen for interviews. Interviews are conducted with a panel selected by the appropriate supervisor and Director. The appropriate supervisor and Director will then select one candidate for the position. Selection is within the sole discretion of the employer.

Medical Examination: If required, after a conditional offer of employment is made to a candidate, HR will arrange for a pre-employment physical examination and drug/alcohol test with a physician approved by the City. The physician will determine if the candidate can perform the essential functions of the position, with or without a reasonable accommodation. The physician's report and any supporting documentation will be maintained in a confidential file separate from the personnel file of the applicant.

Pre-employment Background Check: In accordance with federal, state, and local law, the City may conduct a pre-employment background check, which may include a criminal record check of candidates who have provided a signed release, prior to a conditional offer of employment.

Disqualification: Ultimately, the selection of personnel is within the sole discretion of the City. In addition, HR staff may disqualify from consideration any candidate if one or more of the following apply:

- The application/supplemental application indicates the candidate does not possess the minimum qualifications or established background requirements required for the position including a valid driver's license when required to operate a motor vehicle.
- The candidate fails to file the general employment and supplemental application by the announced closing date for receiving applications.
- The candidate is able to provide acceptable documents that establish identity and employment authorization as outlined by the Department of Homeland Security, U.S. Citizenship and Immigration Services, on the *Employment Eligibility Verification* form (I-9) as amended.
- The candidate lives more than 30 minutes away from the work location and callback availability is required by the city for the position.
- After a conditional offer of employment has been made, the candidate is found to be unable to perform the essential functions and duties of the position with or without reasonable accommodation.

- After a conditional offer of employment has been made, the candidate is found to have a criminal record which disqualifies the applicant from the position pursuant to Minn. Stat. § 364.03.
- The candidate has made a false statement of any material fact, omitted material information or attempted to practice any deception or fraud in the application process.

4.08 LUNCH BREAK AND REST PERIODS

Generally, employees are allowed between 30 and 60 minutes for an unpaid lunch break and a 15-minute paid rest period every four hours of work scheduled, in the morning and afternoon. The Director or supervisor is responsible for scheduling lunch breaks and rest periods. Occasionally, the Director or supervisor may require an employee to work through a lunch break and/or rest period if necessary to cover the workload, allowing adequate time for the employee to use the restroom facilities.

Rest periods cannot be combined into one 30-minute period, banked from day to day, or used to extend the lunch period or shorten the workday, without prior arrangement and approval of the Director. Such approval shall not be given to any employee on a regular (daily or weekly) basis, but should be used with discretion on an occasional basis.

4.09 PERFORMANCE EVALUATIONS

The primary objective of the performance evaluation is to provide information to employees concerning their success in accomplishing the responsibilities of their jobs. To meet this objective, the City needs open and ongoing communication between supervisors and staff members. The City's goal is to conduct a performance review for each regular full-time and part-time employee, once per year. Supervisors or Directors may choose to conduct more frequent performance reviews.

During the first year in a new position, performance evaluations will be conducted at 3-, 6-, 9- and 12-month intervals, and annually thereafter.

Performance evaluation reports must be submitted on approved forms and reviewed by the Director prior to submission to HR. After review by HR, performance evaluations are placed in the employee's personnel file.

4.10 PERSONNEL RECORD OF EMPLOYEES

HR shall maintain a personnel record for each employee. A separate file will be kept for any medical information collected.

The following personnel data on current and former employees is considered public pursuant to Minn Stat. § 13.43, subd. 2.

Name	Basis for and the amount of any added compensation (including expense reimbursement) in addition to salary	Final disposition of any disciplinary action against an employee, together with the specific reasons for the action and any data documenting the basis for the action (excluding data that would identify city employees who were confidential sources)
Employee identification number (must not be Social Security number)	Job title and bargaining unit	Terms of any settlement agreement (including buyout agreements)
Actual gross salary	Job description	Work location and work telephone number
Salary range	Education and training background	Badge number
Terms and conditions of employment relationship	Previous work experience	Work-related continuing education
Contract fees	Date of first and last day of employment	Honors and awards received
Actual gross pension	Existence and status of any complaints or charges against an employee (regardless of whether the complaint of charge resulted in disciplinary action)	Payroll time sheets or other comparable data that are only used to account for an employee's work time for payroll purposes (excluding any timesheet data that would reveal the employee's reason for the use of sick or other medical leave or any other not public data)
Value and nature of employer-paid benefits		

This information is not made public, however, for undercover law enforcement officers or applicants for such positions.

Employees must provide Human Resources with current information for their personnel files, including changes of name, address, telephone numbers, dependents, educational progress, named beneficiaries, and emergency contacts.

Employee access to personnel files is governed by Minnesota Statute 181.961. Upon written request by an employee, Human Resources shall provide the employee with an opportunity to review their personnel record no later than seven (7) working days after receipt of the request. The personnel record will be available for review by the employee during normal business hours and in the presence of a HR representative. A copy of the personnel record shall be provided to the employee upon request and at no cost to the employee.

Access to personnel records shall be limited to once every six months, upon separation from employment, and once per year after separation for as long as the personnel record is maintained.

Contests to the accuracy or completeness of a personnel record should be in writing to HR and must include the objections to the contents of the file. The employee should also supply names and addresses of individuals or entities believed to have received information from the personnel file. Within thirty (30) working days, the file will either be corrected and anyone believed to have received incorrect information will be notified or the employee will be notified that the City considers the data to be correct. No information from the personnel file will be disseminated without a copy of the employee's objections. The employee may appeal the determination pursuant to the Administrative Procedure Act (Minn. Stat. § 14.48-69).

4.11 PROBATIONARY PERIODS

A new, promoted, or transferred employee is required to successfully complete a probationary period of one (1) year for all regular employees. During this time, the new, promoted or transferred probationary employee becomes acquainted with the work assigned to them and can decide if he or she wishes to continue their employment in that position. At the same time, the City can decide if it wishes to continue to retain the employee in that position. A new, promoted or transferred probationary employee is employed "at will" and may be terminated by the City with or without cause at any time if no applicable federal or state law is violated and subject to the rights of veterans. If during the probationary period the City determines that a promoted or transferred probationary employee is not able to adequately perform the duties of the new position, the City may, at its discretion, reinstate the promoted or transferred probationary employee to the position and rate of pay previously held, with no loss of seniority, subject to the rights of veterans. A probationary employee does not have rights to grieve employment decisions made concerning him or her including termination, subject to the rights of veterans.

Before the expiration of the probationary period, Directors must complete an evaluation for the new, promoted or transferred probationary employee using standard forms provided by HR. The forms are intended to give an accurate and fair appraisal of the work performance, attitude and ability, provide observations concerning work habits and dependability, and other factors as may be required by HR. The evaluation is to be reviewed by the Director prior to submission to HR. After review by HR, a copy of the report is placed in the employee's personnel file. Successful completion of the probationary period does not reflect any right of continued employment.

4.12 SEVERE WEATHER CONDITIONS

On days when severe weather conditions exist, it will be the policy of the City of Brooklyn Park to keep offices and facilities open during regular working hours.

If an employee is unable to work or wishes to leave work early due to severe weather conditions, the employee may use accrued vacation, the floating holiday, take time off without pay, or make up the time with prior supervisor approval for the time absent from regularly scheduled work hours. The City Manager or designee has the authority to declare City offices closed.

A severe weather condition is generally defined as a period when the Minnesota Department of Transportation advises no travel in the metropolitan area.



SECTION 5 COMPENSATION

5.01 ALLOWANCES

Cellular Phone Allowance

When in the best interests of the City and following the determination and approval by the Director, an employee may be authorized to use their personal phone for City business and be paid an allowance by the City.

1. The allowance amount paid to an employee shall be at a rate determined by the City.
2. An employee approved to receive the allowance shall annually read and sign the *Cellular Phone Allowance Agreement for Personal Wireless Phone Service* that states the employee has a personal cellular phone and service available for City business use.
3. Regular business use over the monthly allowance for an employee may be reviewed and approved by the Director and City Manager for an increased monthly allowance.
4. The allowance shall be added to the employee's payroll check as other pay.

Adapted from the City of Brooklyn Park
Cellular Phone Use Policy dated 2/23/04

Internet Service Cost-Share Allowance

PURPOSE

This policy is intended to provide a fair and reasonable employee cost-sharing agreement for personal (at home) high speed internet service in exchange for maintaining and using the said service in the act of official duties with proper approval. The policy ensures that personal high speed internet use is consistent with the best interests of the City.

POLICY

High speed internet service reimbursement or allowance is intended for ITS employees and Council Members who require a high speed internet connection outside of City offices in the performance of official City business. Department Directors determine employee eligibility, authorize the use for City business and ensure proper work use is utilized. Eligible employees will receive either a monthly reimbursement or allowance from the City with proper documentation.

The total reimbursement or allowance shall not exceed \$35 per month. An employee who receives an allowance shall read and sign an annual acknowledgment that states the employee has a personal high speed internet connection available for City business use. The internet reimbursement shall be added to the employee's payroll check as "other pay."

Employees or Council Members who choose to receive reimbursement must provide documented proof of service payment before receiving City reimbursement.

PROCEDURES

- ITS personnel and Council Members are eligible for reimbursement or allowance.
- High speed internet service must provide a benefit to, or be a requirement of the City.
- Home use must be approved by the department Director.
- The Director must ensure a high speed connection is required for City business.
- The employee must secure and show proof of high speed home internet service.
- An employee who accepts high speed internet reimbursement foregoes Call Back Pay in lieu of reimbursement and shall be paid for actual hours worked in accordance with the Fair Labor Standards Act.
- Director/employee must read and understand City and other policies regarding working from home (flex hours) and FLSA overtime requirements.
- The policy is subject to change without notice at the discretion of the City of Brooklyn Park.

RESPONSIBILITY

The City Manager or designee will have primary responsibility for implementation and coordination of this policy. Department Directors and supervisors will be responsible for enforcement within their departments and divisions.

Date Policy Established: February 5, 2007 Revised July, 2007
Cross-Referenced: Resolution #2007-16

Vehicle Allowance

Employees may receive a vehicle allowance at the discretion of the City Manager. The City Manager may assign a take-home vehicle in lieu of a vehicle allowance. Also refer to the City Travel Policy, Section 7.16 and the Vehicle Use Policy, Section 7.17.

1. The vehicle allowance for employees is set by the City Manager and approved by the City Council.
2. Employees receiving a vehicle allowance may not receive mileage reimbursement for use of a personal vehicle under any circumstances.
3. Employees receiving a vehicle allowance may not use City-owned, pool vehicles for travel for any reason.
4. Proof of insurance must be provided to Loss Control annually and provided immediately upon request of the Loss Control Division or City Manager.

Removed from the City of Brooklyn Park
Vehicle / Equipment Use Policy and added to
Section 5 by Resolution #2005-148, on June 6, 2005.

Revised March 4, 2013

5.02 CALL BACK PAY

A non-exempt employee called to duty during scheduled off duty times will receive a minimum of two (2) hours pay at one and one half (1-1/2) times the employee's regular base pay rate. Any employee called to duty within one hour of the normal starting time or called back when the employee is still on the premises after punching out at the end of the day, will be considered to have reported early or extended the work day and will not qualify for the two hour minimum. Some departments may have alternate policies regarding on call status.

5.03 COURT TIME PAY

A non-exempt employee called to testify as a witness in any case connected with his or her employment, before any municipal, juvenile, district, or federal court at times other than his or her regularly assigned working hours, shall receive a minimum of two (2) hours pay at one and one half (1-1/2) times the hourly base rate of pay. An extension of or early report to a regular-scheduled shift for court appearance does not qualify for the two (2) hour minimum.

5.04 DEDUCTIONS

The City shall make deductions from an employee's pay as required by law. Employees may designate additional deductions from their pay for any authorized purpose. A detailed statement of current earnings and deductions, as well as year-to-date accruals and deductions, will be provided with each payroll earnings statement.

5.05 DIRECT DEPOSIT

Direct deposit is mandatory and net pay is deposited directly into an employee's designated bank account. Employees will receive an earnings statement each payday.

5.06 EXEMPT AND NON-EXEMPT EMPLOYEE STATUS

The exempt and non-exempt status of an employee is determined by the Fair Labor Standards Act (FLSA).

5.07 JURY DUTY PAY

A regular full-time or part-time employee will be granted paid leaves of absence for required jury duty or for other required subpoenaed appearances before a court or other public body in connection with City-related business. An employee will be required to submit any compensation received to Payroll, minus reimbursement for mileage and parking expenses, in order to receive his or her regular wages for the period.

An employee must present the Notification of Jury Duty to their supervisor as soon as possible after receiving notice to report for jury duty. An employee excused or released from jury duty during his or her regular working hours will report back to his or her regular work duties as soon as reasonably possible. Time spent on jury duty will not be counted as time worked in computing overtime.

5.08 OVERTIME

A non-exempt, regular full-time or regular part-time employee is paid overtime for all hours worked in excess of forty (40) per workweek. Supervisors are responsible to schedule work to minimize overtime. All overtime must be authorized and approved in advance by Directors or supervisors. Any employee's overtime hours in excess of 500 hours per year must be approved by the City Manager.

Operations and Maintenance and Police Patrol non-exempt employees' overtime is governed by their respective CBA.

Unless covered by a CBA addressing this issue, a non-exempt employee must receive overtime at the rate of 1-1/2 times his or her regular rate of pay for all hours authorized, approved and worked in excess of forty (40) hours within a seven day work week. For the purpose of determining overtime, only hours worked are used to meet the over forty (40) hour condition.

A non-exempt employee can receive time off instead of overtime pay only if the time off is taken within the same work week (not pay period). If the time is not taken in the same work week it was earned, it must be paid at 1-1/2 times the employee's regular rate of pay.

There are times when overtime is necessary to meet a department commitment. Each employee has an obligation to work overtime, if requested, unless unusual circumstances prevent the employee from working overtime. Overtime will be offered as equally as practicable. Overtime refused by an employee may be recorded as offered for recordkeeping purposes.

An exempt employee is expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Generally, to meet expectations and for reasons of public accountability, an exempt employee will need to work forty (40) or more hours per week. An exempt employee will be paid on a salary basis under FLSA, which means that pay will not be increased or decreased as a result of the hours worked each pay period, unless there is an absence of one full day or more not covered by some form of authorized leave.

A non-exempt regular full-time employee, not including fire inspectors and fire technicians, shall not hold a second employment position, either full-time or part-time, with the City of Brooklyn Park.

5.09 PAY DAY

Pay days are every other Friday. If a pay day falls on a holiday, paychecks will be direct deposited the day before the holiday. Since the City has 26 pay periods per year, bi-weekly salary amounts do not equate to one-half of monthly salary amounts.

5.10 PAY PLAN

In compliance with the 1984 Minnesota Pay Equity Act, the City has adopted the Brooklyn Park Pay Plan Salary Policy Guidelines ("Salary Plan") to establish and maintain equitable and reasonable compensation relationships among its employees. The salary plan and current compensation schedules are public data and are available for review on the intranet or in HR.

5.11 POSITION CLASSIFICATION

An employee will be compensated according to the schedule and pay plan. Any wage or salary established is the total remuneration for employment, but shall not be considered as reimbursement for official travel or other expenses allowed for the conduct of official business. Unless approved by the City Manager, no employee shall receive pay from the City in addition to the salary authorized for the position to which they are appointed.

The classification plan shall be administered and maintained by HR. An employee shall be assigned to a position and pay grade that best describes his or her duties and responsibilities based on salary plan established criteria, in accordance with state and federal laws, subject to approval by the City Manager and City Council. HR shall make amendments and revisions as needed to provide for new positions and changing conditions. The official position titles shall be used in all HR, accounting, budget and financial records.

Only Directors may initiate a request for position reclassification. Requests shall be in writing on the established forms and sent to HR. The City Manager or designee will approve/deny the request.

5.12 SPECIAL DUTY COMPENSATION FOR EXEMPT EMPLOYEES

Under extreme situations, where the best interest of the City of Brooklyn Park is served, an employee who is classified as exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) may be eligible for Special Duty Compensation for hours worked beyond his or her regular schedule.

- I. The City may offer Special Duty Compensation provided all of the following conditions are met:
 - A. An extreme situation occurs that is unplanned, unforeseen and would jeopardize the successful operation of the City.

- B. The Director of the Department has declared that an unplanned or unforeseen extreme situation created a short-term, mission-critical situation where it is in the best interest of the City for the exempt employee to receive additional compensation.
 - C. The Director of the Department has analyzed the extreme situation and determined that the number of hours necessary to complete the work is justified.
 - D. The City Manager agrees with the Director's declaration, which specifies the duration, reasons and cost justification.
 - E. The employee exceeds sixty (60) hours of work in a seven consecutive-day period.
 - F. In each instance, the City Council must give final approval prior to invoking the special duty compensation for exempt employees.
 - G. Department Directors are excluded from this policy.
- II. Eligible employees may elect to receive Special Duty Compensation in any combination of the following two ways:
- A. Additional straight-wage payments for hours worked in excess of 60 in a seven consecutive-day period.
 - B. Compensatory time off in lieu of wages for hours worked in excess of 60 in a seven consecutive-day period. Any compensatory time not used within six (6) months of the date accrued will be forfeited.

Nothing in the foregoing policy shall be interpreted as changing the overtime exempt status of any employee who is eligible for Special Duty Compensation.

Effective August 1, 2011

5.13 TIMESHEETS

All employees will complete a timesheet declaring the number and type of category hours worked during the pay period. Timesheets must be signed by the employee and supervisor, and submitted to Payroll under the timelines established by the Finance Director. Reporting false information on a timesheet may be cause for immediate termination.

5.14 WAGE INCREASES

Each year, as part of the budget process, the City Council may approve a general increase and adjust the compensation plan.

A non-exempt employee may qualify for wage step increases. Step increases are defined as movement in a salary range. An exempt employee may qualify for an annual incremental salary adjustment based upon the City Council-approved merit pay program.

A union member should refer to their collective bargaining agreement for the times and conditions for step increases. For a non-union employee, the increases are annual, based on position anniversary date and a satisfactory or above performance evaluation rating. These increases are in addition to the general increase and are contained within the City Council-approved pay plan.



SECTION 6 EMPLOYEE BEHAVIOR

6.01 APPEARANCE

Working for the City of Brooklyn Park is public employment and the personal appearance of City employees is constantly subject to public scrutiny. While the City generally leaves choice of dress to the discretion of the individual, an employee's appearance should always be appropriate for the public service environment and reflect favorably on the City's image.

An employee should always be aware of personal hygiene and proper personal appearance. Personal attire should be appropriate to the nature of the work and contacts with other people and should present a professional and positive image to the public.

"Business casual" is the standard of attire with consideration for public or business meetings and people involved. More casual clothing, including blue jeans (without holes, frays, etc.), will be allowed on Fridays, subject to the requirements of one's scheduled meetings and commitments.

No dress code can cover all contingencies, so each employee must use judgment in the clothing worn to work. If you are uncertain about what work clothing is considered acceptable or business casual attire, please ask your supervisor or Human Resources staff.

A non-uniformed employee is required to wear his or her ID/key card at all times while on duty. The card must be displayed in plain sight. A uniformed employee is not required to wear his or her ID/key card, but should carry his or her card at all times while on duty.

With prior approval from the City Manager, Directors may establish rules and regulations governing appearance and dress code or additional uniform requirements within their respective departments. It is the responsibility of each employee to maintain the standards established in this policy. Policy enforcement shall be the responsibility of supervisors and department Directors.

6.02 CODE OF ETHICS

Responsibilities of Public Office

Public employees are agents of public purpose and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of Minnesota and impartially carry out the laws of the nation, state and municipality and to foster respect for all government. They are bound to observe in their official acts the highest

standards of morality and to discharge faithfully the duties of their particular position regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

Dedicated Service

An employee shall adhere to adopted rules of conduct as outlined in the Handbook. An employee shall not exceed his or her authority or breach the law or ask others to do so, and shall work in full cooperation with public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of his or her work.

Use of Confidential Information

An employee of the City shall not use confidential or private information to further the employee's private interest, and shall not accept outside employment or involvement in a business or activity that will require the employee to disclose or use confidential or private information.

Use of City Property

The City will provide equipment and property with the understanding that an employee has no expectation of privacy in City facilities, property or equipment and that it can be inspected with or without notice. This includes City computers, internet accounts and email accounts.

An employee shall not use or allow the use of City time, supplies, or City-owned or City-leased property or equipment for the employee's private interest or any other use not in the interest of the City, except as provided by law, unless the employee has received prior written Director approval for such use and the use is of minimal value.

An employee is strictly forbidden from recovering for personal use any previously City-owned and discarded tools, equipment, supplies or other items regardless of condition level or serviceability.

6.03 COUNCIL AND STAFF RELATIONS

On occasion, a Council Member may make a request directly to a Director, Division Manager, or City staff. Requests from a Council Member for information or to respond to maintenance problems, ordinance enforcement difficulties, etc., should be responded to as soon as possible. The City Manager should be advised so it can be determined if the information would be of interest to all members of the City Council.

If the matter can be handled in conformance with existing administrative policy, it should be resolved as the priority of the issue dictates. If the requested action raises policy or procedural questions or if the proposed action is inconsistent with any previously adopted Council policies or actions, the City Manager will advise the Council Member and the entire City Council, as necessary.

6.04 GIFT POLICY

In the course of or in relation to their official duties, an employee shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service, or promise of future employment or other future benefit from any source, except the City, for any activity related to the duties of the employee unless otherwise provided by law, Minn. Stat. 471.895.

Examples of what is acceptable:

- At an open house, which you attend as part of your job duties, where the general public is invited, whether held in the City of Brooklyn Park or elsewhere, you may have cookies and non-alcoholic beverages.
- At a store where there are free pens available to any member of the general public.
- You are attending a conference for which a registration fee has been paid, and in addition to information, you are supplied with a pen and paper.
- You are asked to speak at a meeting as part of your duties and the organization offers to pay for your meal in exchange for the presentation. You may accept the meal.
- You may accept informational brochures if the content is “unexceptional,” not something that a private firm prepared unique to your needs.

Examples of what is not acceptable:

- You are invited by a contractor, vendor or business to a private event, not open to the general public, where hors d’oeuvres supplied. If you are attending as a representative of the City, you need to pay for the food provided. You are eligible for reimbursement of this cost.
- A store in Brooklyn Park or a vendor who does business with the City offers you a special deal because you are a City employee or because the City does business with them (discounts, free offers, etc.). You may not accept this gift.
- At a conference, a vendor has a special hospitality room that is not available to the general public. You are advised not to accept the invitation.
- A vendor offers you a hat, shirt, etc. You should decline the gift. At some point there is a delineation between a “trinket and memento of insignificant value” (pen, small note pad) and a gift. The law is not clear on how to make that determination, but as a guideline, if you think it could be questioned, do not accept.

An employee will not benefit from his or her position as an employee with respect to vendor relations over that of any city resident. In addition to the state law, City policy prohibits an employee from receiving gifts from interested persons unless covered by Minn. Stat. 471.895, Subd. 3.

Violations of the state gift policy may be your personal liability; the City does not defend these claims. Policy violations could be a violation of duty as an employee (i.e., fiduciary duty) if you are using your position as an employee to gain an unfair advantage with respect to a business opportunity or if it leads to financial gain.

Minn. Stat. 471.895, Subd. 2

“Prohibition: An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person.”

Minn. Stat. 471.895, Subd. 1(c)

“Interested person means a person or a representative of a person or association who has a direct financial interest in a decision that a local official is authorized to make.” This includes any person applying for a permit or license, wishing to contract with the City for services, or a resident who has a financial interest in a decision that the City is authorized to make. This does not include a foreign country or foreign dignitary as long as the foreign country or foreign dignitary does not have a direct financial interest in a decision that the City is authorized to make.

Minn. Stat. 10A.071

“Gift means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.” You have to pay for what you get.

Minn. Stat. 471.895, Subd. 1(d)

“Local official means an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city.” All City employees are appointed. Minn. Stat. 10A.01, Subd. 22 states, “Local official means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.” For example, if you decide which vendor to go to, you are making a decision on expenditure of public funds.

Minn. Stat. 471.895, Subd. 3 Exceptions:

Prohibitions do not apply if the gift is:

- A contribution as defined in section 211A.01 subdivision 5.
- Services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information and communication in connection with legislation and services to constituents.
- Services of insignificant monetary value.
- A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause.
- A trinket or memento costing \$5 or less.
- Informational material of unexceptional value.
- Food or beverage given at a reception, meal or meeting away from the recipient’s place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

Minn. Stat. 471.895 Subd 3b

Prohibitions do not apply if the gift is given:

- Because of the recipient’s membership in a group, a majority of whose members are not local officials, and an equivalent gift is given to other members of the group.

- By an interested person who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.
- By a national or multistate organization of governmental organizations or public officials, if a majority of the dues to the organization are paid from public funds, to attendees at a conference sponsored by that organization, if the gift is food or a beverage given at a reception or meal and an equivalent gift is given or offered to all other attendees.

In addition to the state law, the City has taken the position that gifts from interested persons (as defined above) should not be accepted by any City employee unless covered by Minn. Stat. 471.895, Subd. 3, *Exceptions*.

6.05 INTERFERENCE WITH CITY BUSINESS

No employee may engage in any work stoppage, slowdown, or strike except as allowed by state statutes or as allowed by any collective bargaining unit agreement. Unauthorized activity of this nature may result in disciplinary action. An employee who participates in a work stoppage/slowdown may not apply to the lost time any earned sick leave, vacation leave, compensatory time or any other leave of absence the employee may be entitled.

In addition, no employee may earn any pay or fringe benefits including paid leave of absence while participating in a work stoppage/slowdown.

6.06 OUTSIDE EMPLOYMENT

The potential for conflicts of interest is lessened when individuals employed by the City of Brooklyn Park regard the City as their primary employment responsibility. Therefore, every employee needs to complete an “Outside Employment Waiver Form” (found on the employee intranet) and affirmatively seek permission for outside employment from their immediate supervisor. The waiver form needs to be approved and signed by the Department Director and Human Resources Manager before outside employment is to begin. If a department policy and/or CBA provision applies, that policy is to be followed. If 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 that is 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 that is compatible with City employment. The following factors will be considered when determining if outside employment is acceptable:

- Outside employment must not interfere with a full-time employee's availability during the City’s regular hours of operation or with a part-time employee's regular work schedule.
- Outside employment must not interfere with the employee's ability to fulfill the essential requirements of the employee’s position.

- The employee must not use City equipment, resources or staff in the course of the outside employment.
- The employee must not violate any City personnel policies as a result of outside employment.
- The employee must not receive compensation from another individual or employer for services performed during hours for which the employee is also being compensated by the City. Work performed for others while on approved vacation or compensatory time is not a violation of policy unless that work creates the appearance of a conflict of interest.
- No employee will work for another employer, or for the employee's own business, while using paid sick leave from the City for those same hours.
- Departments may establish more specific policies as appropriate, subject to the approval of the City Manager.

A City employee is 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.

6.07 PERFORMANCE OF DUTIES

An employee must perform tasks assigned to them by their supervisor in accordance with work standards established within their department. An employee must work in an effective and efficient manner that maintains or improves the reputation of the City and does not involve loss of time or property.

6.08 POLITICAL ACTIVITY

An employee is prohibited from participating in political activities during working hours, while on City property, or while wearing or using any uniform, device or equipment, etc. that could serve to identify them as a City employee.

Any employee seeking a public office within the City shall comply with applicable provisions of Minn. Statutes 211A, 211B and 383B as amended as well as any other applicable state or federal law. Any employee seeking public office outside the City shall not permit such candidacy for office to interfere with his/her duties with the City. Campaigning or conducting other business shall not take place during work time.

This section shall not be interpreted or enforced in a manner which conflicts with the provisions of the City Charter and/or laws of the State of Minnesota.

6.09 SERVING ON BOARDS, COMMISSIONS OR COMMITTEES

An employee may be considered for openings on City advisory boards, commissions, and committees within the following parameters:

- 1) May not serve on boards or committees if their supervisor or Director serves as the staff liaison.

- 2) Must use the same application and meet the same requirements as residents.
- 3) The Council will consider employees, along with other applicants, at Council meetings upon advertising the vacancy in local media.
- 4) The City Manager will advise the Council prior to consideration of the employee if the Manager believes a conflict of interest may exist.
- 5) Appointments to the Charter Commission are governed by Minn. Stat. 410.05.
- 6) May not serve as chair of a board or commission (City of Brooklyn Park Charter, Section 2.02).
- 7) May not use work time to serve on the commission unless specifically directed or permitted to do so.

6.10 STATEMENT OF ECONOMIC INTEREST

The City's governing document, the City Charter, Section 14.03, requires elected officers and employees with the authority to make decisions regarding the expenditure or investment of public money file a written *Statement of Economic Interest* with the City Clerk, prior to taking office or position, and at two-year intervals thereafter. The *Statement of Economic Interest* shall include any ownership interest in real property excluding homestead property within Brooklyn Park and any ownership interest in any business entity in the City of Brooklyn Park.

A City officer or employee who willfully conceals such financial interest or willfully violates the requirements shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation with the knowledge, either expressed or implied, of the person or corporation contracting with or making a sale to the City shall render the contract of sale void by the City Council.



SECTION 7 CITY POLICIES

7.01 ALCOHOL/CONTROLLED SUBSTANCE TESTING

Commercial Drivers Policy (DOT)

In response to regulations issued by the Federal Motor Carrier Safety Administration (FMCSA) of the United States Department of Transportation (DOT), the City of Brooklyn Park has adopted this *Policy on Alcohol and Controlled Substances for Commercial Drivers*. The City also has a separate *Policy on Controlled Substance and Alcohol testing for non DOT employees*.

The City seeks to maintain a work environment conducive to maximum safety and optimum work standards. The use, possession, manufacture, sale, transportation, or distribution of controlled substance(s) or controlled substance paraphernalia and the unauthorized use, possession, transportation, sale, or distribution of alcohol is contrary to this policy and jeopardizes public safety.

This policy is not intended to be a contract, promise, or representation of any specific term or condition of employment except to the extent required by law. In the event applicable DOT or FMCSA regulations governing alcohol and controlled substance use and testing are supplemented or amended, this policy shall be deemed to have been amended to conform to the applicable regulations.

This policy does not in any way affect or change the status of any at-will employee. Nothing in this policy is a promise or guarantee or should be construed as a promise or guarantee that the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. Any revisions to the Federal Omnibus Transportation Employee Testing Act will take precedent over this policy to the extent the Administrative Order has not incorporated those revisions.

I. PERSONS SUBJECT TO TESTING

The City may test any applicant to whom a conditional offer of employment has been made and may test any Driver for controlled substances and alcohol under any of the following circumstances:

A. Pre-Employment Testing. The City will conduct pre-employment controlled substance testing of each Driver position applicant after a conditional job offer has been made and prior to the first safety-sensitive function. A Driver may not perform safety-sensitive functions unless the employee 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, the City may obtain information from the applicant's previous employers certifying compliance with another DOT-controlled substance testing program. If requested, each applicant must execute a consent form authorizing the disclosure of such information. Pre-employment alcohol testing will not be conducted.

B. Post-Accident Testing. As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, the City will test for alcohol and controlled substance of each surviving Driver who:

- was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- receives a citation under state or local law for a moving traffic violation arising from the accident and one of the following two conditions is met:
 - (1) the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

A Driver who is subject to post-accident testing must remain readily available for such testing. Drivers not readily available for such testing may be deemed by the City to have refused to submit to testing.

Drivers are required to submit to post-accident controlled substance testing within thirty-two (32) hours of the accident. If not tested within thirty-two (32) hours, the City will maintain on file a record stating why the test was not promptly administered.

Drivers are required to submit to post-accident alcohol testing within two (2) hours and no more than eight (8) hours after the accident. After an accident, consuming alcohol is prohibited until 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 the Driver is not tested within eight (8) hours after the accident, the City will prepare and maintain on file a record stating why the test was not administered.

In the event of an accident, it is possible the Driver will be directed to submit to a breath, blood, or urine test for the use of alcohol or controlled substance administered by a federal, state, or local law enforcement officer. 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.

C. Random Testing. Every Driver will be subject to alcohol and controlled substance testing on a random selection basis. 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 selected for random testing must immediately report to the designated test site. Drivers may be selected for more than one (1) random test per year.

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

Federal law requires testing at least fifty percent (50%) of the average number of Drivers for controlled substances each year, and at least ten percent (10%) of average number of Drivers for alcohol each year. These minimum testing rates are subject to change by DOT.

D. Reasonable Suspicion Testing. With reasonable suspicion of conduct prohibited by federal law, a Driver must submit to an alcohol or controlled substance test. Alcohol testing will occur either while, before or after performing safety-sensitive functions. Reasonable suspicion will be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the Driver made 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 controlled substances, 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 designee who has received appropriate training in identification of actions, appearance and conduct of a Driver which are indicative of alcohol or controlled substance use. Written observations will be recorded on a *Reasonable Suspicion Record Form*. The alcohol test will be conducted by a qualified individual not involved in the reasonable suspicion determination.

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.

E. Return-to-Duty Testing. The City reserves the right to impose discipline against Drivers who violate applicable FMCSA 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 re-qualify such Drivers.

Should the City consider reinstatement, the Driver must undergo a Return-to-Duty test within the definition of Confirmation Test (see XI. Definitions).

F. Follow-Up Testing. The City reserves the right to impose discipline against Drivers who violate applicable FMCSA 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 re-qualify such Drivers.

Should a Driver be reinstated following the determination by a Substance Abuse Professional (SAP) that the Driver needs assistance to resolve problems associated with alcohol use and/or use of controlled substances, the City will ensure that the Driver is subject to unannounced follow-up alcohol and/or controlled substance testing. Follow-up testing will be directed by the SAP and consist of at least six (6) tests in the first twelve (12) months following a return to duty. Follow-up testing will not exceed sixty (60) months from the date of return to duty. Follow-up alcohol testing will be conducted only while, before or just after the Driver is performing safety-sensitive functions.

G. Cost of Required Testing. The City will pay for pre-employment, post-accident, random, and reasonable suspicion controlled substance and alcohol testing. Drivers must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.

II. REQUIRED BACKGROUND CHECKS AND VERIFICATIONS

The City will conduct background checks of commercial motor vehicle driver applicants with signed consent from the applicant. The City will obtain information on any alcohol test with a concentration result of 0.04 or greater, positive controlled substance test results, and refusals to be tested, (including verified adulterated or substituted controlled substance test results), violations of other DOT controlled substance and alcohol testing regulations and documentation of successful completion of return-to-duty requirements within the preceding two (2) years from previous employers. In addition, the City will obtain any information maintained by previous employers within the preceding two (2) years pursuant to FMCSA controlled substance and alcohol testing regulations. The City will review records prior to the first time a Driver performs safety-sensitive functions, or no later than thirty (30) calendar days after the first performance of safety-sensitive functions.

III. CONDUCT PROHIBITED BY FEDERAL LAW

The following conduct is explicitly prohibited by applicable DOT regulations adopted by the FMCSA and constitutes violation of City policy.

A. Alcohol Concentration. No Driver may report for duty or remain on duty requiring the performance of safety-sensitive functions with an alcohol concentration of 0.04 or greater.

B. On-Duty Use of Alcohol. Alcohol use on duty is prohibited.

C. Pre-Duty Use of Alcohol. No Driver may perform safety-sensitive functions within four (4) hours after using alcohol.

D. Alcohol Use Following an Accident. Drivers may not use alcohol for eight (8) hours following an accident or until undergoing a post-accident alcohol test.

E. Refusal to Submit to a Required Alcohol or Controlled Substance Test. No Driver may refuse to submit to a post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance test.

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, may appear on the Driver's permanent record and will be subject to discipline. If an applicant refuses to submit to pre-employment testing, the conditional offer will be withdrawn.

The following also constitute a refusal to submit to test:

- fails to provide adequate breath for alcohol testing without a valid medical explanation after the Driver has received notice for breath testing;
- fails to provide adequate urine for controlled substance testing, after the Driver has received notice for urine testing;
- fails to report for testing within a reasonable period of time, as determined by the City;
- fails to remain at a testing site until testing is complete;
- fails to permit observation or monitoring for directly observed or monitored collection;
- fails or declines to take a second test as required by the City and/or collector;
- fails to undergo a medical examination as directed pursuant to federal law;
- engages in conduct that clearly obstructs the test process;
- refuses to complete and sign the alcohol testing form; or
- fails to cooperate in a way that prevents the completion of the testing process.

F. Controlled Substance Use. No Driver may report for duty or remain on duty when the Driver uses any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the Driver in writing that the substance does not adversely affect the Driver's ability to safely operate a commercial motor vehicle. The Driver must inform the City in writing of any therapeutic controlled substance use immediately after receiving any such advice.

G. Controlled Substance Testing. No Driver may report for duty, remain on-duty or perform a safety-sensitive function if the Driver tests positive for controlled substance.

IV. CONDUCT PROHIBITED BY THE CITY

In addition to the conduct prohibited by applicable DOT and FMCSA regulations, the City also prohibits the following actions:

A. Manufacture, Trafficking and Sale. May not engage in the manufacture, sale, purchase, solicitation to sell or purchase, transportation, distribution, or dispensing of alcohol or controlled substance paraphernalia while on duty on City premises, or in a City vehicle.

B. Criminal Controlled Substance or Alcohol Convictions. Any Driver convicted under any federal, state or local criminal controlled substance or alcohol statute for a violation occurring in the workplace, on City premises, or in any City vehicle must notify the City in writing of such conviction no later than five (5) days after such conviction.

V. COLLECTION AND TESTING PROCEDURES

A. Alcohol Testing. Employees will be tested for alcohol before, during, or immediately following performance of a safety-sensitive function. Screening tests will be performed using a non-evidential screening device approved by NHTSA or an EBT-operated BAT at a collection site. All confirmation tests will be conducted in privacy, unless unusual circumstances (e.g., scene of an accident) make it impracticable.

- (1) If an insufficient amount of breath is provided to permit a valid test, the collector will instruct on the proper way to provide a sufficient breath, and repeat the test.
- (2) Failure to provide sufficient breath on the second attempt, the collector will determine whether to test a third time or change to a saliva alcohol screening test, if the Driver is qualified to provide the test.
- (3) If the procedures result in an insufficient amount of breath for an alcohol test, the Driver must obtain within five days, an evaluation from a licensed physician acceptable to the City with expertise in the medical issues raised by the employee's failure to provide a sufficient specimen for testing.
- (4) If the licensed physician concludes that a medical condition has, or with a high degree of probability could have, precluded the Driver from providing a sufficient specimen, the City will consider the test to be canceled. If the licensed physician cannot make such a determination, the City will consider the Driver to have refused to engage in the testing process and will take appropriate disciplinary action under this policy.
- (5) If the collector uses a saliva alcohol test and the employee is unable to provide sufficient saliva to complete the test, the collector will conduct a new test with a new screening device. If an insufficient amount of saliva is provided to complete the new test, the collector will administer an alcohol test to the employee using a breath testing device.

B. Controlled Substance Testing. The City will use a "split urine specimen" collection procedure. Collection of specimens for testing will be conducted by an approved collector and in privacy. 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 it in a scientifically-acceptable manner for a minimum of twelve (12) months.

- (1) If an employee fails to provide a sufficient amount of urine to permit a controlled substance test (45 milliliters), the collector will discard the insufficient specimen unless there is evidence of tampering.
- (2) The Driver will be allowed to drink up to 40 ounces of fluid, distributed reasonably for a period of up to three hours, or until a sufficient urine specimen.
- (3) If a sufficient specimen is not provided within three hours of the first unsuccessful attempt, the collector will cease efforts to obtain a specimen.
- (4) The Driver has five working days to obtain an evaluation from a licensed physician, acceptable to the MRO, with expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.

- (5) If the physician concludes a medical condition has, or with a high degree of probability could have, precluded the Driver from providing a sufficient specimen, the test is considered canceled.
- (6) If a physician cannot make such a determination, it will be considered a refusal to test, and appropriate disciplinary action will be taken.

C. Chain of Custody and Confidentiality of Test Results. All controlled substance and alcohol testing will be performed in compliance with applicable law, including use of an appropriately-licensed urine testing laboratory which observes applicable control and custody procedures. The City will use procedures to test for the presence of alcohol and controlled substance in order to protect the Driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that test results are attributed to the correct Driver. All reports of tests will be kept in confidence by the laboratory and provided only to the City and the City's MRO (Medical Review Officer), unless the Driver provides written consent or disclosure is otherwise permitted or required by law.

VI. REVIEW AND NOTIFICATION OF TEST RESULTS

Review by Medical Review Officer (MRO)

Results of controlled substance tests will be sent by the testing laboratory to an independent MRO selected by the City. The MRO is responsible for reviewing and interpreting test results, reviewing the Driver's medical history to explain a positive test result, and notifying Drivers of confirmed positive test results. Drivers who have been tested for controlled substance must remain available following the test to be contacted by the MRO.

Prior to making a final decision to verify a positive test result, the MRO will give the individual an opportunity to discuss the test result. 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 individual wishes to discuss the test result:

- The individual may be required to speak and/or meet with the MRO, to review the individual's medical history, including any medical records provided;
- The individual will have the opportunity to discuss the test result and to offer any additional or clarifying information to explain the positive test result;
- If there is new information that may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen to further clarify the result; and
- A final positive or negative determination will be made by the MRO and the individual will be notified.

If the MRO determines that there is a legitimate medical explanation for a confirmed positive test result, the MRO will report the test result to the City as negative. If the MRO determines that there is no legitimate medical explanation for a confirmed positive test result, the MRO will report the positive test result to the City in accordance with DOT regulations. Based on a review of laboratory reports, quality assurance and quality control data, and other controlled substance test results, the MRO may conclude that a particular confirmed positive controlled substance test result is

scientifically insufficient for further action. Under these circumstances, the MRO will conclude that the test is negative for the presence of controlled substances or controlled substance metabolites in a Driver's system.

VII. NOTIFICATION OF TEST RESULTS

A. Job Applicants. An applicant has sixty (60) calendar days after receiving notice of the disposition of their employment application to request test results.

B. Employees. Drivers will be notified of verified positive tests and the type of substance found in the results of random, reasonable suspicion and post-accident tests. Results of alcohol tests will be immediately available from the collection agent.

C. Right to Confirmatory Retest. An applicant or Driver may request through the MRO a re-analysis (confirmatory retest) of the Driver's split specimen within seventy-two (72) hours after receiving notice of a positive test result. Per federal regulation, removal from safety-sensitive functions will not be stayed during retesting. If 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 not testable, the MRO will cancel the test. Drivers will be reimbursed for lost pay if removed from service due to a positive test, which is later negated by a confirmatory retest, and no personnel action will be taken based on the original test.

D. Dilute Specimens

(1) *Dilute Positives.* A dilute positive specimen will be considered a positive test.

(2) *Dilute Negatives.* A dilute negative specimen will require a second screening test.

VIII. CONSEQUENCES FOR DRIVERS ENGAGING IN PROHIBITED CONDUCT

A. Job Applicants. A conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for controlled substances.

B. Employees. A Driver may not perform safety-sensitive functions, including driving a commercial motor vehicle, if the Driver has engaged in conduct prohibited by federal law.

A Driver with an alcohol concentration between 0.02 and 0.04 may not perform or continue to perform safety-sensitive functions, 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. The Driver will be escorted home and placed on vacation, comp time or another appropriate leave of absence for hours missed from work until a confirmatory test has been completed.

C. Notification of Resources Available. A Driver violating federal law or testing positive for alcohol or controlled substances will be notified of the resources available including EAP, SAPs, counseling and treatment programs. The information, including contact names/addresses will be provided in writing.

D. Evaluation and Follow-Up Testing. The City reserves the right to impose discipline against a Driver who violates applicable FMCSA rules or this policy. Except as otherwise required by law, the City is not obligated to reinstate or re-qualify a Driver.

Should the City reinstate a Driver who violates federal law or tests positive in an alcohol or controlled substance test, the Driver will be evaluated by a SAP. The SAP will determine what assistance, if any, the Driver needs to resolve problems associated with alcohol and/or controlled substance use and will ensure that the Driver properly follows the rehabilitation program and submits to unannounced follow-up alcohol and controlled substance testing.

E. Responsibility for Cost of Evaluation and Rehabilitation. A Driver is responsible for the cost of evaluation and rehabilitation, including SAP, recommended or required by the City or FMCSA rules.

D. Discipline and Termination

(1) *First Positive Test Result.* A Driver will not be discharged with a positive first test result if the test was required by the City unless independent grounds for doing so or the following conditions have been met:

- (a) The Driver was provided an opportunity to participate in a counseling or rehabilitation program, as determined by the City after consultation with a SAP. Participation by the employee in any recommended program will be at the employee's own expense. The SAP will determine prescribed rehabilitation program was followed;
- (b) The Driver 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. Failure to participate or complete is grounds for discharge.

(2) *Second Positive Test Result.* Where alcohol or controlled substance abuse prevents a Driver from performing the essential functions of the job or constitutes a direct threat to property or the safety of others or otherwise constitutes a bona fide occupational qualification, HR will recommend the City Manager begin discharge proceedings.

(3) *Other Misconduct.* This policy does not limit the right of the City to discipline or discharge a Driver on grounds other than a positive test result in a confirmatory test, including conviction of any criminal drug statute for a violation occurring in a workplace or violation of other City personnel policies.

IX. MAINTENANCE AND DISCLOSURE OF RECORDS

Except as required or authorized by law, the City will not release Driver information contained in records required to be maintained by this policy or the FMCSA regulations. A Driver is entitled, upon written request, to obtain copies of any records pertaining to alcohol or controlled substance use, including any records pertaining to alcohol or controlled substance tests. The Driver is responsible for the cost of copying all records requested.

X. POLICY CONTACT FOR ADDITIONAL INFORMATION

If you have any questions about this policy or the controlled substance and alcohol testing procedures, you may contact your immediate supervisor or the Loss Control/Risk Manager.

XI. 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. 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/Content - the alcohol on a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an EBT. 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 (BAT) - an individual who instructs and assists in the alcohol testing process and operates an evidential breath testing device (EBT). 49 C.F.R. § 40.3.

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 - City-designated place for the purpose of providing specimens 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 of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 or more pounds; 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 and which require the motor vehicle to be placarded under the Hazardous Materials Regulation. 49 C.F.R. § 382.107. Fire trucks and other emergency fire equipment are not considered to be commercial vehicles under this policy.

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. §40.21(a). 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. §40.21(a).

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.”

Evidential Breath Testing Device or EBT - National Highway Traffic Safety Administration (NHTSA)-approved device 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.

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.

Safety Sensitive Function - all available time from which a Driver begins to work or is required to be ready to work until the time the Driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include all time:

- At a City plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the Driver has been relieved from duty by the employer;
- 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;
- Spent at the driving controls of a commercial motor vehicle in operation;
- 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);
- 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
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. 49 C.F.R. §382.107.

Screening Test or Initial Test - in alcohol testing, means an analytical procedure to determine whether a Driver may have a prohibited concentration of alcohol in his/her system. Screening tests may be conducted by utilizing a non-evidential screening device included by NHTA on its conforming products list (e.g., a saliva screening device) or an EBT device operated by a trained BAT. In controlled substance testing it is an immunoassay screen to eliminate “negative” urine specimens from further consideration. 49 C.F.R. §382.107.

Substance Abuse Professional (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 a clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. 49 C.F.R. §382.107.

7.02 ALCOHOL/CONTROLLED SUBSTANCE TESTING

General Policy (Non-DOT)

The City of Brooklyn Park has a vital interest in maintaining safe, healthy and efficient working conditions and recognizes that individuals impaired by use of controlled substances, jeopardize the safety and health of themselves and others. Alcohol and controlled substance abuse effects are often exhibited in unsatisfactory job performance, increases in tardiness, absenteeism, accidents, workers' comp claims, insurance rates, and theft of City property.

As a condition of employment, employees in specific job classifications will undergo alcohol and controlled substance testing. Employees required to have a commercial driver's license by the U.S. Dept. of Transportation (DOT) will also be tested under the City's Policy for Commercial Drivers (DOT Policy). If a conflict exists between the two policies, the more restrictive policy will apply. Nothing in this policy is a promise or guarantee or should be construed as a promise or guarantee that the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law.

I. PROHIBITION AGAINST ALCOHOL AND CONTROLLED SUBSTANCES

A. Use and Possession. Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol or controlled substances or controlled substance paraphernalia while on duty, on City premises, while operating any City vehicle, machinery, or equipment, or when performing any City business; except a valid prescription used as directed; or over-the-counter medications used as intended by the manufacturer.

B. Prohibited Conduct. Employees are prohibited from having a detectable amount of alcohol at 0.02 or greater or controlled substance at threshold levels or greater in their breath, urine, or blood when reporting for work, while on duty, on City premises, while operating any City vehicle, machinery or equipment, or in the performance of business. Prohibited conduct does not include using a valid prescription as directed; or using an over-the-counter medication as intended by the manufacturer.

II. TESTING

The City may test any employee or applicant to whom an offer of employment has been made for alcohol and/or controlled substances under any of the following circumstances:

A. Pre-Employment Testing. Applicants may be offered employment conditional upon successful completion of a controlled substance test. The applicant will be informed if the offer is withdrawn based on controlled substance test results. A conditional offer will be withdrawn, even if the applicant's provisional employment has begun, as result of a failed controlled substance test, a refusal to test, or failure to meet conditions of the offer.

B. Reasonable Suspicion Testing. Employees in a safety-sensitive position will be subject to testing where reasonable suspicion exists to believe the employee:

- is under the influence of alcohol or a controlled substance; or
- has violated written work rules in Section I. (A) and/or (B) of this policy; or
- has sustained an injury requiring medical care, or has caused another employee to sustain an injury requiring medical care; or
- has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident; or
- has discharged a firearm other than on a target range, or while conducting authorized ballistics tests; or
- has, as determined by the department director/designee or the City Manager, engaged in an act or omission related to the performance of the job, whether on or off duty, that logically requires or justifies such testing, revealed as a clear and compelling necessity by the nature of the incident.

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 a controlled substance 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 may have occurred.

C. Return-to-Duty Testing. Before an employee will be allowed to return to duty, the employee must test negative on a Return-to-Duty Test, the employee must be evaluated by a Substance Abuse Professional (SAP) and participate in any prescribed educational, counseling or rehabilitation program. The SAP will require a follow-up evaluation to determine successful completion of the program. The SAP will provide a written report to the City following the initial and follow-up evaluations with the employee.

The Return-to-Duty Test is not limited to a specific substance (i.e., the drug for which the employee tested positive). If the SAP determines that a multiple-substance abuse problem exists, a controlled substance test may be performed in conjunction with an alcohol test.

D. Follow-Up Testing. Following a positive test determination and successful completion of a treatment program, the employee is subject to announced and unannounced follow-up testing as directed by the SAP for up to two years. A positive test in follow-up or subsequent testing will result in disciplinary action including dismissal.

E. Right of Refusal. Employees and applicants have the right to refuse to cooperate with requested tests. However, refusal to test will be considered a positive test, resulting in disqualification from operating a City vehicle or performing safety sensitive functions, and discipline pursuant to this policy. If an applicant refuses to submit to pre-employment testing, the conditional offer of employment will be withdrawn.

Further, the following items constitute a refusal to test:

- fails to provide adequate breath for alcohol testing without a valid medical explanation after has received notice of the requirement for breath testing;
- fails to provide adequate urine for testing without a genuine inability to provide a specimen (as determined by a medical evaluation) after the employee has received notice to test;
- fails to report for testing within a reasonable period of time as determined by the City;
- fails to remain at a testing site until testing is complete;
- fails to permit observation or monitoring when required for collection;
- fails or declines to take a second test as required by the City and/or collector;
- engages in conduct that clearly obstructs the testing process;
- refusal to complete and sign required forms; or
- refusal to cooperate in a way that prevents the completion of the testing process.

An opportunity will be provided to participate in a counseling or rehabilitation program, as determined by the City after consultation with a SAP.

A discharge will result from refusal to participate in a designated program or failure to successfully complete the program as evidenced by withdrawal or by a positive test result/second refusal to test on a confirmatory retest after completion of the program.

Employees are responsible for the cost of the treatment program. The SAP will determine if the employee has followed the prescribed rehabilitation program.

F. Cost of Required Testing. The City will pay for the cost of pre-employment, post-accident, and reasonable suspicion controlled substance and alcohol testing for applicants and employees. Employees will pay for the cost of all requested confirmatory re-tests, Return-to-Duty and Follow-up Tests.

III. ALCOHOL/CONTROLLED SUBSTANCE OFFENSES

A. Driving While Impaired. A conviction of driving while impaired in a City-owned vehicle at any time or in an employee-owned vehicle while conducting City business may result in any or all of the following:

- discipline, up to and including discharge;
- restrictions on using City-owned vehicles for City business for the period of one year, at which time the situation will be revisited;
- removal from a position requiring the operation of vehicles. Continued employment is at the City's discretion, contingent upon the availability of other positions the employee is qualified; and
- referral of the employee to substance abuse evaluation or treatment.

B. Criminal Controlled Substance Convictions. An employee convicted under federal, state, or local law for a controlled substance-related offense occurring on duty, on City premises, while operating any City vehicle, machinery, or equipment, or when performing any City business, must notify his or her supervisor and the Human Resources Division (HR) in writing no later than five (5) days after such conviction.

Within thirty (30) days after receiving notice, the City will take the appropriate personnel action, or require the employee to satisfactorily participate in a substance abuse assistance or rehabilitation program. 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.

C. Failure to Disclose Lawful Controlled Substances. Employees taking a lawful controlled substance, including prescription and over-the-counter controlled substance(s), which may impair their ability to perform their job or pose a safety risk to themselves or others, must advise their supervisor before beginning work. In the event of such a disclosure, the supervisor will consult with HR. If it is determined that the legal controlled substance use does not pose a safety or job performance risk, the employee may be permitted to work.

IV. CONSEQUENCES FOR ENGAGING IN PROHIBITED CONDUCT

A. No Adverse Action Without Confirmatory Test. An employee will not be discharged, disciplined, discriminated against, requested or required to attend rehabilitation based on an initial screening positive test result not verified by a confirmatory test.

B. Suspension Pending Test Result. A tested employee may be temporarily suspended with or without pay or transferred to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the City believes 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 transportation. An employee suspended without pay will be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

C. Discipline and Discharge

- (1) First Positive Test Result.* An employee will not be discharged with a positive first test result if the test was required by the City unless independent grounds for doing so or the following conditions have been met:
- (a) The employee was provided an opportunity to participate in a counseling or rehabilitation program, as determined by the City after consultation with a SAP. Participation by the employee in any recommended program will be at the employee's own expense;
 - (b) 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.

(2) *Second Positive Test Result.* A second positive confirmed test result will result in HR recommending that the City Manager begin dismissal proceedings.

(3) *Other Misconduct.* This policy does not limit the City to discipline/dismiss an employee on grounds other than a positive confirmatory test, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other policies.

V. REVIEW AND NOTIFICATION OF TEST RESULTS

A. Positive Test Review. Results of positive tests will be sent by the testing laboratory to an independent Medical Review Officer (MRO) selected by the City. The MRO is responsible for reviewing and interpreting test results, reviewing the employee's medical history and notifying those with confirmed positive test results.

If the employee wishes to discuss the test result:

- the employee may be required to speak or meet with the MRO, who will review his/her medical history, including any medical records provided;
- the employee will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information to explain the positive test result;
- if there is some new information that may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to clarify the results; and
- a final determination will be made by the MRO that the test is either positive or negative and the individual will be notified.

If the MRO determines there is a legitimate medical explanation for a confirmed positive, the result will be reported as negative. If it is determined there is no legitimate medical explanation for a confirmed positive test result, the MRO will report a positive test result to the City. Based on a review of laboratory reports, quality assurance/quality control data, and other test results, the MRO may conclude that a test result is scientifically insufficient for further action and the MRO will report the test is negative.

Applicants and employees are strongly encouraged to speak with the MRO to provide a valid explanation for a positive test result. The MRO will verify a test as positive without talking directly with the individual under the following circumstances:

- the individual expressly declines the opportunity to discuss the test with the MRO after being contacted by the MRO or the MRO's staff representative;
- neither the MRO nor the City, after making all reasonable efforts, has been able to contact the individual within fourteen (14) days of the date on which the MRO receives the confirmed positive test result from the laboratory; or
- the City has successfully made and documented a contact with the individual and instructed the individual to contact the MRO and more than five (5) days have passed since the date the individual was successfully contacted.

Once a positive test has been verified by the MRO it can be reopened only if the employee presents documentation to the MRO that serious illness, injury, or other circumstances unavoidably prevented him/her from being contacted as described above. If the employee

expressly declines the opportunity to discuss the test with the MRO the test cannot be reopened regardless of any explanation provided by the individual.

B. Negative Test Results Notification. In the case of job applicants, HR will verbally notify applicants of a negative result and the hiring process will resume. A *Negative Test Results Notification* form will also be sent to the applicant. The applicant may request a copy of the test result report from HR.

In the case of current employees, negative breath alcohol test results will be communicated to the employee immediately upon conclusion of the breath alcohol test. HR will verbally notify the employee and the employee's supervisor of a negative blood alcohol or urine controlled substance test result. In all cases, a *Negative Test Results Notification* form will also be sent to the employee. The employee may request a copy of the test result report from HR. The employee will receive back pay for time lost and the City will not take any adverse action based on the negative test result.

C. Positive Test Result Notification. Positive breath alcohol test results will be communicated to the employee immediately upon conclusion of the breath alcohol test. In the case of positive blood alcohol or urine controlled substance test results, the MRO will contact the employee or job applicant to discuss the positive test result.

HR will send a *Positive Test Results Notification* letter to the supervisor and employee or applicant containing further instructions within three (3) working days of receiving a confirmed positive test notification. Current employees will also receive a *Release of Information* form to furnish to the Employee Assistance Program (EAP) during treatment. The employee or job applicant may contact HR to request a copy of the test result report.

VI. EMPLOYEE RIGHTS

A. Right to Provide Information After Receiving Test Results. The employee or applicant may submit information to the City or its MRO to explain the result within three (3) working days after notice of a positive controlled substance or alcohol test result on a confirmatory test. If the employee or applicant has tested positive for controlled substance use, the MRO may request the individual identify any over-the-counter or prescription medications the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, the positive result.

B. Right to Confirmatory Retest. In the case of urine controlled substance testing and blood alcohol testing, 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 (5) working days after notice of the confirmatory test result, the job applicant or employee must notify the City or its MRO in writing of intent to obtain a confirmatory retest. Within three (3) 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 laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure control and custody procedures are

followed during transfer of the sample to the other laboratory. The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels used in the original 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 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 cost of the confirmatory retest.

C. Right to Obtain Test Result Report. An employee or job applicant has the right to request and receive from the City, through HR, a copy of the test result report on any controlled substance or alcohol test. Within three (3) working days after receipt of a test result report from the testing laboratory, the City will inform the employee/applicant who has undergone controlled substance or alcohol testing of this right.

D. Dilute Specimens

(1) *Dilute Positives.* A dilute positive specimen will be considered a positive test under this policy.

(2) *Dilute Negatives.* The City will direct the employee to take a second screening test as soon as possible in the case of a dilute negative specimen.

E. Employee Assistance Program (EAP). The EAP provides confidential, professional counseling to help you identify, cope and develop solutions for the problems you and your family may be experiencing. EAP is offered to all regular status employees and families to help with personal or work-related problems. Services are available by contacting T.E.A.M., Inc., 700 Transfer Road, St. Paul, MN 55114, or telephone at 651-642-0182.

F. 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 Supervisor or the Loss Control/Risk Manager to obtain additional information.

VII. DEFINITIONS

Alcohol concentration/content - the amount of alcohol present in urine or blood expressed in terms of percent of the weight of alcohol per volume of urine or blood (w/v), or the amount of alcohol present in breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

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

Breath Alcohol Technician (BAT) - an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device.

City Premises - includes all City job sites and work areas, transportation to and from job sites while in the course and scope of employment.

City Vehicle - any vehicle employees are authorized to use solely for City business or any vehicle owned or leased by the City when used for City business.

Collection Site - a place designated by the City where applicants and employees report to provide specimens to be analyzed for the presence of controlled substances and alcohol.

Confirmatory Test - a test on a sample to substantiate the results of a prior test on the same sample and which ordinarily uses different chemical principles and is of equal or greater accuracy than the prior test. Definitions for Confirmatory Test are as follows:

- *Breath Alcohol Testing.* A second test following the initial test with an alcohol concentration of 0.02 or greater which provides quantitative data of alcohol concentration.
- *Blood Alcohol Testing.* A second laboratory test following a positive test to confirm alcohol concentration of 0.02 or greater in a blood specimen.
- *Urine Controlled Substance Testing.* A second procedure following a positive test to identify the presence of a controlled substance or metabolite, which is independent of the initial screening test and which uses a different technique and chemical principal from that of the initial screening test in order to ensure reliability and accuracy of the test result.

Controlled Substance (Drug) - Defined in Minn. Stat. §152.01, subd. 4. The term includes all substances in schedules I through V of Section 202 of the Federal Controlled substance Act, 21 U.S.C. §812. Amphetamines, barbiturates, benzodiazepines, cocaine, opiates (including heroin), phencyclidine (PCP), marijuana, methadone, methaqualone, propoxyphene, and any of the metabolites are included within the definition.

Evidential Breath Testing Device (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" (CPL) and identified on the CPL as conforming to the model specifications available from the NHTSA, Office of Alcohol and State Programs.

Initial Screening Test - An analytical procedure used to determine whether a prohibited concentration of alcohol exists. Initial breath alcohol screening tests will be conducted by a trained BAT utilizing an EBT device. Initial blood alcohol screening tests will be conducted by the laboratory in accordance with applicable law. In controlled substance testing, initial screening test means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical Review Officer (MRO) - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by a controlled substance and alcohol 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.

Positive Test Result - a finding of the presence of alcohol or a controlled substance or their metabolite, in the sample tested in levels at or above the applicable threshold detection level. In alcohol testing, a positive test result occurs when the confirmed alcohol concentration is 0.04 or above. For controlled substance testing, a positive test result occurs when the testing laboratory finds the presence of controlled substance or their metabolites at levels equal to or above the threshold detection levels set forth above. Minimum threshold detection levels are determined at the discretion of the City and subject to change without prior notice.

Reasonable Suspicion - a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-Sensitive Position - any job in which an impairment caused by drug or alcohol usage would threaten the health or safety of another.

Substance Abuse Professional (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 a clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. 49 C.F.R. §382.107.

7.03 CARD ACCESS/EMPLOYEE IDENTIFICATION

Identification cards are provided to identify employees and also serve as electronic key access to City buildings. This policy will apply to all classifications of employees, elected officials, facility visitors, and vendors who require access to City facilities.

The Police Department administers the employee identification/key access card system and maintains accurate and up-to-date database records. The Central Services Division provides support for the mechanical components of the system. The Information and Technology Services Division provides support for the technical components of the system.

Employee access protocols are established, maintained and assigned for each job classification under the direction of the Police Chief (security officer), or security designee.

Employees are required to prominently display the identification/key card at all times while on duty. Alternative means of display may be utilized with approval of the employee's supervisor. The card must be displayed, facing the front, in plain sight. Employees are encouraged to prominently display the card any time they are acting in an official capacity for the City. In addition to identifying the individual as a City employee, the card will also serve as an employee nametag.

This policy recognizes that certain uniformed employees may not be required to display their identification card at all times while on duty and/or in uniform. Uniformed employees should carry their identification card at all times and display the card at the discretion of the Director. This

policy also recognizes that it may be impractical or unsafe for certain employees to always display their identification card while performing certain duties.

7.04 EQUAL EMPLOYMENT POLICY

It is the City's policy and intent to provide an equal employment opportunity to all persons. Discrimination is prohibited because of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, disability, age, marital status, veteran/military status, or status with regard to public assistance or any other characteristic protected by law.

This policy applies to full-time, part-time, probationary, temporary and seasonal employment, unless otherwise stated, but not limited to, recruitment, hiring, demotion, transfer, selection, lay-off, disciplinary action, termination, compensation and selection for training. This policy also applies to the use of all facilities and participation in all City-sponsored employee activities.

The City and employees shall equally share responsibility for applying the provisions of this policy.

7.05 ILLNESS POLICY – LIFE THREATENING

The City recognizes that employees with life threatening illnesses – including but not limited to AIDS, cancer, and heart disease – and other disabilities may wish and be physically able to work a regular or modified work schedule.

The City seeks to accommodate employees with life threatening diseases and other disabilities by allowing them to work as long as they are able to perform essential job functions, with or without reasonable accommodation, provided medical evidence indicates that their conditions are not a threat to themselves or others.

7.06 INFORMATION SYSTEMS POLICY

The City attempts to provide employees with the best technology available to conduct official business. The City has installed equipment that includes computers and technological systems, such as Internet access and electronic mail (email). This document was created to advise all users regarding access to and disclosure of information created, transmitted, received and stored via use of the Internet, email, and other computer systems (collectively referred to as the "City's information systems"), and to ensure that employees understand their responsibilities when using the technology provided by the City.

Accordingly, the City reserves the right to monitor Internet use, all email and other computer transmissions, and any stored information created or received by City employees using the City's information systems. The reservation of this right is to ensure that public resources are used appropriately and to ensure that the City's information systems are operating as efficiently as possible in order to protect the public interest. All computer applications, programs, and work-

related information created or stored by employees on the City's information systems are City properties and are subject to data practices rules.

Use of public resources by employees for personal gain and/or private use including, but not limited to, outside employment or political campaign purposes, is prohibited and punishable by disciplinary action which may include termination and/or criminal prosecution, depending on the nature and severity of the transgression. Incidental and occasional personal use will be permitted unless it interferes with the employee's work or the work of others. Employees are encouraged to use good judgment. The term "public resource" as used in this policy includes equipment, hardware, software, or other tangible articles, as well as employee time engaging in unauthorized use while on duty.

Each Director/supervisor is responsible for their subordinate's use of computers and the Internet. Policy infractions may result in disciplinary action ranging from verbal warnings to termination; the severity of the misuse governs the severity of the disciplinary action.

All City employees with access to computers, email, the Internet, or other components of the City's information systems are required to read, understand and abide by these general policies and guidelines. The law and associated policy regarding the use of Internet, email and voice mail is continually evolving. Accordingly, review of the policies and guidelines will occur with regularity, and changes shall be made as required.

Information Systems

The City encourages departments to use information systems (personal computers, Internet, Intranet, imaging system, pc applications, etc.) as job enhancing tools to assist in accomplishing official business. When using these tools the following policies should be adhered to.

Official City Business

1. Using the information systems to accomplish official City business must be consistent with the City's mission.
2. Information systems resources are made available to City employees to support official City business. Employees are prohibited from using these resources for personal or private gain, illegal purposes, or other inappropriate uses as defined in these policies and guidelines.

Privacy and Security

Use of passwords on files by employees does not make them private, nor does it make them the exclusive property of the individual who assigned the password. Therefore, passwords will be disclosed to supervisors upon request and may be bypassed by ITS staff if deemed necessary.

Unauthorized Software

1. Due to liability issues, all computer software applications in use by City employees must be properly licensed in accordance with the vendor's specific requirements.
2. Most software is subject to Federal copyright law. All software acquisition, including shareware, shall be handled by the ITS Division. Employees may request additional software with ITS approval.

3. The installation and use of games and entertainment software on any City-owned information system is strictly prohibited.

Internet

The City encourages departments to use the Internet to disseminate information to the public and its employees (collectively called "users") to improve communications with the public, and to carry out official business when such business can be accomplished consistent with the following:

Official City Business

1. Official City business conducted via the Internet must be consistent with the City's mission. Business conducted in this manner must also comply with all statutory requirements as well as standards for integrity, accountability, and legal sufficiency, and should meet or exceed the standards of performance for traditional methods (such as meetings, use of telephone, etc.).
2. City employees will use Internet resources to support and promote official City business. Inappropriate use of these resources includes personal use, private gain, to state as "City positions" those not officially endorsed by the City, illegal endeavors, and any other uses deemed inappropriate elsewhere in this policy.
3. Management reserves the right to monitor Internet transactions made by employees.
4. Departments should base decisions to use the Internet on sound business practices; particularly where costs are reduced and/or the services provided to the City's constituents are improved in measurable ways.

Privacy and Security

1. Questions regarding confidential or proprietary information should be directed to the City Manager or his/her designee. City management has the right to monitor and log all transactions in or out of the system and may disclose information from these sources to third parties without providing notice to employees.
2. Each department will provide employees with authorization for Internet access. Approved authorization signifies that the employee is responsible for their account security and will therefore be held responsible for all use or misuse of his or her account. Employees must secure passwords and never use an account assigned to another user.
3. Employees are prohibited from making unauthorized attempts to enter any computer. Such an action is a violation of the Federal Electronic Communications Privacy Act (ECPA) 18 U.S.C. § 2510.

Email

Email has become an important communication tool for the City. To ensure that the system runs at optimum efficiency, it is important for employees to adhere to the following rules.

Access Issues

1. Employees may not intentionally intercept, eavesdrop, record, read, alter, or receive another person's email messages without proper authorization.
2. Employees who are terminated or laid off have no right to the contents of their email messages and are not allowed access to the email system. Supervisors or management

personnel may access employee email if an employee is on leave of absence, vacation, or is transferred from one department to another, and when doing so is necessary for the City's business purposes.

3. Management reserves the right to monitor, without prior notification, all email created, received or stored on public resources for purposes that include, but are not limited to, records retention/destruction and investigation of illegal activity.
4. Employees shall have no expectation of privacy regarding the use or monitoring of email.

Legal Accountability

1. Email containing significant information relating to the transaction of City business is considered public record and therefore subject to records retention requirements. Such email should be printed and retained on file.
2. Email is subject to discovery in litigation. Deleting an email does not guarantee that it has been erased from the system. Employees are expected to use good judgment when creating email and to always assume that it is discoverable.
3. Employees are obligated to cooperate with any investigation authorized by their supervisor regarding their use of public resources.
4. Copying or transferring electronic files without permission is prohibited. Most data and software are subject to the Federal copyright laws. Software requiring purchase or reimbursement for its use, including shareware, requires strict adherence to the terms and conditions specified by the owner.
5. The City Council and other groups subject to the open meeting laws should not use email to communicate with other members of the Council or group if:
 - A quorum of the Council/group subject to the open meeting law is involved, and email is being used to discuss, deliberate, or receive information related to official business.
 - Less than a quorum of the Council or group subject to the open meeting law is involved, and email is being used in a serial fashion to avoid a public hearing or to reach agreement on an issue relating to official business.

Resource Protection

1. Shareware and other software may cause conflicts with existing City systems; therefore, downloading any software is prohibited unless approved by IT in advance.
2. Because of the potential for viruses, employees are advised to use caution when downloading files from the Internet. The City's virus software is set up to automatically scan all files. Employees shall not disable this function or cancel the function to update the virus signatures.
3. Email that is not public record should be deleted as soon as the administrative purpose of the message has been served.
4. Emailing sizeable files or sending email to a large number of recipients consumes network resources needed for critical business. It is the responsibility of the employee to use network resources wisely by showing constraint when using email.

Sending Email

1. Sending or knowingly viewing threatening, slanderous, racially and/or sexually harassing messages, the use of profanity and derogatory remarks is strictly prohibited. Refer to the Respectful Workplace Policy (7.12) for the correct procedures on reporting violations of this type.
2. Sending spam, chain letters, or any unwanted or repetitious email to other employees or third parties is prohibited. Employees are not allowed to use email to promote religious or political activities, for personal gain, in support of illegal activities, or for selling of any kind that is not directly related to City business (including activities such as fund raisers, requests for sponsorship in activities, or any other type of solicitation).
3. Representation of an employee as someone else, real or fictional or a message sent anonymously is prohibited.
4. When formulating email, employees should be aware that they are creating records and are therefore expected to use good judgment when doing so. Employees are prohibited from sending, posting, or providing access to confidential material or information.
5. Because no computer system is completely secure, employees are discouraged from sending sensitive information via email.
6. Employees should report inappropriate use of email to their supervisor, who will take action accordingly.

City Websites

The official (public) City website is a fundamental communication tool for providing critical information. The goal of the official website is to encourage participation in City government and to help create a more vibrant community for residents and visitors. The internal (Intranet) website provides fundamental and critical information to employees to assist in accomplishing the City's mission.

Presentation

Information and services presented via the websites should emphasize ease of use, reach a broad audience and should be presented in a manner that promotes a professional image of the City.

Information Management

1. Information disseminated via the websites should be current, accurate, complete, and consistent with City policies.
2. A disclaimer will be included on City websites declaring that information found on the website should not be considered acceptable for legal purposes and encouraging individuals to verify the accuracy of the information by contacting City staff.
3. Drafts or works in progress will be published on City websites only if dated and clearly identified as such.
4. The City will comply with any applicable copyright, patent, and trademark laws when publishing information on the City's websites.

Sanctions

1. Corporate or commercial logos not affiliated with City-related organizations or activities are not allowed on the City's external website.
2. Electronic access to information is intended to be provided through a logical single point of entry. For the Internet, this logical point of entry is the City's officially registered domain name (brooklynpark.org). Each department or City-related organization is defined as a sub-area within the official domain.
3. The City website is for official use only. Information disseminated through the website must be related to the official duties and responsibilities of employees and departments or the community.

Political Material

The City's websites may not be used for campaign-related purposes, and may not link to any private website related to a candidate's campaign for elective office. City employees or officials may not use any City website pages for campaign-related purposes, which include, but are not limited to the following: statements in support or opposition of any candidate or ballot measure; requests for campaign funds or references to any solicitations of campaign funds; and references to the campaign schedule or activities of any candidate.

7.07 LEAVE DONATION POLICY

The City of Brooklyn Park recognizes that a catastrophic illness of an employee or immediate family member may deplete an employee's paid vacation and sick leave. This policy provides employees with an option to assist fellow employees at such a time.

A. Policy

Employees may donate a portion of accrued sick leave to a qualifying employee who experiences a catastrophic illness. A catastrophic illness is defined as an illness that hinders an employee's or immediate family member's major life activities as defined by Section 504 of the American's with Disabilities Act. An immediate family member is defined as a qualifying family member under the Family Medical Leave Act. A catastrophic illness is an illness or medical condition defined by a physician's diagnosis.

The donation of leave shall be subject to the following terms and conditions.

B. Administration

1. Donated leave is considered a gift and at no time shall an employee be obligated or pressured to donate.
2. Donated leave is considered wages and taxable income for the recipient, subject to all applicable state and federal tax withholding.
3. Upon approval, Human Resources will deduct donor sick leave (in hours) and credit the requesting employee's sick leave. Any un-used donated sick leave will remain in the receiver's sick leave bank and will be treated per city policy.
4. Hours will be donated on an hour for hour exchange.

5. The City Manager is the program administrator and shall have the right to deny or limit the use of donated leave, to amend, alter or eliminate the program if determined to be in the best interests of the City.
6. Human Resources will calculate the maximum number of donated hours available to the recipient.
7. This program will run concurrently with FMLA.
8. Donations will be requested for two weeks or once the maximum donation is received. Donations will be requested from the recipient's home department for the first week. Donations will be opened city-wide the second week of the donation period.
9. This process is confidential. Human Resources will not specify the reason for the donation or supply the recipient donor names.
10. Only the employee or the employee's official representative may request leave for a catastrophic illness. Requests will be made in writing to Human Resources and include certification from the attending physician or other appropriate health care provider. The *Request for Donated Leave Form* is available on the employee intranet or from Human Resources.

C. Recipient

1. An employee is eligible to use donated leave only to replace normal work hours.
2. An employee is eligible to receive donated leave effective the date of approval and after exhausting accrued sick, vacation, holiday and compensatory time. Upon request, an employee may reserve 40 hours of vacation time.
3. Employees are eligible to receive donated leave following one (1) year of employment and successful completion of probation.
4. The recipient is not entitled to any pay allowances or benefits while receiving donated leave including, but not limited to, standby pay, specialist pay, longevity pay, vehicle allowance, cell phone allowance or high-speed internet allowance.
5. Full-time employees will not receive more than a total of 480 hours per qualifying event. Part-time employees will not receive more than a total of 240 hours of donated leave per qualifying event.
6. The recipient must be a benefit-eligible regular full-time or part-time employee.

D. Donor

1. An employee may donate up to twenty-four (24) hours of sick leave per qualifying event.
2. Donations must be in full hour increments.
3. An employee must donate paid leave from accrued sick balances.
4. A donor must maintain a minimum balance of eighty (80) hours of sick leave at the time of donation and not be in probationary employment status.
5. Donations will be allocated on a first-come, first-serve basis.
6. A written request to donate leave must be submitted to Human Resources. All donations will be confidential. The *Leave Donation Authorization Form* is available on the employee intranet or from Human Resources.

Approved: April 22nd, 2019 Council Meeting

7.08 NEWS RELEASE POLICY

News media will be provided information that is factual and accurate in order to inform the public of the City's business.

For purposes of this policy, "news release" is defined as material written by an employee regarding City government operations distributed to the news media. For example, it is not intended to restrict an employee, as a private citizen, from expressing his or her rights in "letters to the editor."

1. To the extent possible, any employee who is requested by the news media to give information regarding City business shall refer such request to the City Manager.
2. All news releases should be coordinated through the Communications Department.
3. News releases shall be not issued without prior approval of the City Manager or authorized designee.

Because of the confidentiality of Police Department matters, the City of Brooklyn Park Police Department will follow procedures defined in Brooklyn Park Police Department General Order #318, and is exempt from this policy. The Public Information Officer of the Fire Department is also exempt from this policy.

7.09 PRIVACY POLICY

Employees are covered under Minnesota Statute Chapter 13, Minnesota Government Data Practices Act; however, employees do not have a reasonable expectation of privacy. City-owned technology, equipment and property such as lockers, City vehicles, desks, and filing cabinets are considered public areas and not considered for privacy protection. The City reserves the right to inspect City-owned property and equipment without notice.

7.10 PUBLIC PURPOSE EXPENDITURE POLICY

The following items are deemed to meet the Council definition of Public Purpose Expenditures. The annual review of the Public Purpose Expenditures Policy shall be at a time no later than the approval of the following year's budget. With respect to the following categories of spending, all other uses are inappropriate.

- 1. Meals and Refreshments:**
 - a. Are allowed as part of a City business meeting that involves non-City employees.
 - b. Are part of an official City business meeting when it is the only practical time to meet and when involves non-City employee participants (i.e. business developers or business representatives). Only the expenses incurred by City employee(s) may be reimbursed. The City Manager may allow exceptions when deemed in the interest of the City.
 - c. Are allowed at non-routine, official meetings of the City Council, Committees, task forces or subgroups (such as retirements or recognition).

- d. Is part of the structured agenda for an offsite conference, workshop, seminar, training session, or meeting the City Manager or a department director has authorized the employee to attend for training and development purposes.
- e. Are allowed at department-sponsored meetings, conferences or workshops where the majority of invited participants are not City employees.
- f. Are allowed at department-sponsored events where registration fees are charged and the majority of invited participants are not City employees.
- g. Are allowed at meetings consisting primarily of City employees where refreshments and/or food are an integral part of the event and are necessary to sustain the flow of the meeting, and if the meeting meets one of the following criteria:
 - 1) A department-wide annual staff meeting for all employees; or
 - 2) A non-routine senior staff or organizational meeting; or
 - 3) An organization-wide or department-wide annual staff meeting for all managers/supervisors; or
 - 4) A structured training session of a minimum length of three (3) hours and held no more than once per quarter may include refreshments.
 - 5) A structured all-employee event to promote the City's Mission and Operational Values held no more than once per quarter may include refreshments.

All meetings shall be scheduled to minimize inclusion of meals, and be approved in advance by the City Manager.

- h. A dinner meal for staff during performance of election-related duties on Election Day.
- i. Are for the purpose of hydration, bottled water for random U.S. Department of Transportation Commercial Driver's License (CDL) drug/alcohol testing in accordance with federal regulation.
- j. Provide a meal on Christmas Day and Thanksgiving Day for staff that are required to be on duty over the evening dinner hour.

2. Recognition Events/Purchases

- a. The City Manager may authorize modest expenditures for food and refreshments for the following annual employee events:
 - 1) Employee Picnic
 - 2) Clean Up Day Breakfast
 - 3) Employee Recognition Celebration

No expenditures shall be made for spouses or friends of employees attending these events.

- b. Recognition gift purchases must not exceed \$25 per employee, unless part of a Council-approved employee compensation program. Recognition gift purchases over \$25 but less than \$100 per employee, such as caps, pins, rings, watches, statues, plaques, medals, awards, ribbons, and certificates will be awarded as approved by the City Manager or his/her designee for retirement and extraordinary individual or item contributions. Awards to paid on-call firefighters and/or volunteers may not exceed \$150 in value per

employee/volunteer event. The Council will allow for the annual appropriation of funds within the Administration Department's budget to pay for such expenditures.

c. **Employee Recognition Awards**

- 1) Years of service awards for regular full and part-time employees of \$10 per year of service are recognized at 5-year intervals and will be awarded at the Annual Recognition Event.
- 2) Retirement cake in recognition of those retiring with over 10 years of service.

3. Community Outreach

- a. Tater Daze, National Night Out, the Volunteer Recognition event, Make a Difference Day, Community Engagement Initiative and other events that involve or invite participation by the general public.
- b. Representative staff members/Council members may participate in events that directly benefit the marketing of the City. These events and any City expenditures for them require prior specific approval by the City Council and also include City expenditures for participation fees, donated gifts, door prizes, etc.

4. Refreshments and food for Emergency Response Staff

Emergency personnel are often called to perform duties for extended periods of time where refreshments are important to duty performance. Firefighters, police officers, other emergency response personnel, or other staff necessary to maintain continuity of service may be provided refreshments or food when it is deemed appropriate by the City Manager or Department Director to assure the delivery of quality emergency response service.

5. Employee Training

- a. Registration, tuition and travel expenses for conferences, seminars, workshops, tuition and approved City employment-related course work in accordance with City of Brooklyn Park Employee handbook is allowed.
- b. Tuition assistance required for retraining as part of planned organizational change based on an organization change plan is allowed.

6. Memberships and Dues

When the primary purpose of the membership is for public benefit and not personal interest or gain in accordance with City of Brooklyn Park Employee Handbook.

7. Alcoholic Beverages

The purchase of alcoholic beverages is not allowed.

8. Clothing and Other Sundry Items

Employees may receive clothing and other sundry items of nominal value when these items are made available to the general public or if these items are determined by the City Manager to be important to the successful involvement of employees in promoting our operational values, and special city-sponsored or city-supported events (i.e. National Night Out, Tater Daze, etc.). Employees may be supplied with uniforms, clothing, boots and other gear necessary for the performance of their job.

9. Employee Wellness Program

Public funds may be expended to establish, implement, and operate a preventive health and wellness program for city employees. The nature and scope of the programs to include but not limited to: preventive health screening and assessments, health and wellness education and programming (i.e. nutrition, cardiovascular fitness, flexibility and core strengthening, stress management, tobacco cessation, etc.) and program incentives to include but not limited to cash incentives as approved by the City Council.

To encourage wellness activities, the cardio fitness room, weight training room, and racquetball courts (during non-prime times) at the Community Activity Center will be available to employees during their non-work hours at no charge. Registration, proper training and signed waiver form are required before use of these facilities. Only employees participating in the wellness program are eligible for this incentive.

Approved by Council Resolution
March 26, 2013

7.11 REFERENCE POLICY

Responding to Requests for References

The City of Brooklyn Park provides reference information on former employees within the scope of the Minnesota Government Data Practices Act.

No private employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. Upon receipt of a release, responses shall be limited to factual information that can be substantiated by City records.

Supervisors may respond to reference check inquiries from other employers; however, supervisors are encouraged to coordinate personal reference requests with Human Resources-to ensure appropriate information is released.

The City will follow Minn. Stat. 626.87 regarding police employment background investigations.

Asking for References

After candidate information has been gathered during the interview stage of the hiring process, further background information should be gathered on all candidates considered as finalists.

Employees conducting reference checks shall document all information gathered during reference checks. Only work-related questions about the candidate should be asked during the reference check. Sample references questions can be obtained by contacting Human Resources.

7.12 RESPECTFUL WORKPLACE POLICY

PURPOSE

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

APPLICABILITY

Maintaining a respectful work environment is a shared responsibility. This policy is applicable to all employees, elected officials, members of boards and commissions, firefighters, volunteer personnel and consultants providing professional services to the City.

ACCOUNTABILITY

Each supervisor and Director is responsible for the implementation of this policy within their department/division/area and:

- will periodically review this policy with employees to reinforce that disrespectful behavior is considered a form of employee misconduct and discipline will be enforced against anyone engaging in such conduct or allowing such conduct to continue;
- will encourage individuals who believe they have been the recipient of disrespectful behavior to report such incidents to their supervisor, Director, the Human Resources Division, or the City Manager;
- will cooperate with an investigation of disrespectful behavior; and
- will monitor the workplace to ensure compliance with this policy

Each employee is responsible for complying with this policy and is expected to maintain a positive and professional work environment by behaving and communicating in a respectful manner.

TYPES OF DISRESPECTFUL BEHAVIOR

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

- **Violent behavior** includes the use of physical force, harassment, or intimidation.
- **Discriminatory behavior** includes inappropriate remarks about or conduct related to a person's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, or status with regard to public assistance.
- **Offensive behavior** may include such actions as rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disrespectful language, or any other behavior regarded as offensive to a reasonable person. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction. Although the standard for how employees treat each other and the

general public will be the same throughout the City, there may be differences between work groups about what is appropriate. If an employee is unsure if a particular behavior is appropriate, the employee should request clarification from their supervisor, Human Resources or the City Manager.

- **Sexual harassment** can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
 - Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

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

- Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written abuse, kidding, or comments that are sexually-oriented and considered unacceptable by another individual. This includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, pictures, drawings, posters, calendars, email, voicemail, innuendos or actions that offend others.
- Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

Sexual harassment and inappropriate conduct is strictly prohibited and will not be tolerated. Inappropriate conduct in violation of this policy constitutes just cause for discipline which may include suspension or termination.

POSSESSION AND USE OF DANGEROUS WEAPONS

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

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

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

- Police officers and employees who are in possession of a weapon or firearm in the scope of their official duties.

The City reserves the right to search and inspect property and persons while on City premises, while operating City machinery, equipment or vehicles for work-related purposes, or while engaged in City business off premises.

REPORTING AND RESPONSES TO DISRESPECTFUL WORKPLACE BEHAVIOR

If you observe or have knowledge of disrespectful behavior, believe an employee is the victim of inappropriate behavior/conduct or receive any reliable information about such conduct, you are required to immediately report the behavior to your supervisor. If you do not wish to discuss the matter with your supervisor, report the action to the Human Resources Division or the City Manager. All allegations of disrespectful behavior will be taken seriously.

In the case of sexual harassment, violent or discriminatory behavior, a supervisor must immediately follow the steps outlined below when an allegation is reported:

Step 1. Provide written documentation of the allegations within two (2) business days to Human Resources or the City Manager, who will determine if an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by the victim.

Step 2. If the Human Resources Division determines a formal investigation is warranted, a thorough and timely investigation will be conducted in compliance with applicable state statutes, union contracts, and this policy.

Step 3. Once the investigation is completed, all reports and statements along with a recommendation will be provided to the City Manager. If the facts support the allegations, disciplinary action up to and including immediate termination may result. The City Manager will provide the alleged violator and the complainant with the findings and conclusions as soon as practicable.

In situations other than sexual harassment, violent, or discriminatory behavior, a supervisor will use the following guidelines when an allegation is reported:

Step 1. If the nature of the allegation 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 require the conduct to stop and not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 2. If further action or investigation is required, the supervisor will immediately notify the Human Resources Division and provide a written report of the allegations.

Step 3. If the Human Resources Division determines a formal investigation is warranted, a thorough and timely investigation will be conducted in compliance with applicable state statutes, union contracts, and this policy.

Step 4. Once the investigation is completed, all reports and statements along with a recommendation will be provided to the City Manager. If the facts support the allegations, disciplinary action up to and including immediate termination may result. The City Manager will provide the alleged violator and the complainant with the findings and conclusions as soon as practicable.

EMPLOYEE RESPONSE TO DISRESPECTFUL WORKPLACE BEHAVIOR

If an employee sees, overhears or has knowledge of a violation of this policy, the employee is encouraged to follow the actions steps below.

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

Step 1b. If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor, Human Resources or the City Manager. The person to whom you speak to is responsible for documenting the issue and for giving you a status report on the matter no later than ten (10) business days after your report.

Step 2. If, after thirty (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 or the Mayor.

SPECIAL REPORTING REQUIREMENTS

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to Human Resources or the City Manager.

If the City Manager is perceived to be the cause of a disrespectful workplace behavior 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 Council Member is perceived to be the cause of a disrespectful workplace behavior incident involving City personnel, the report will be made to the City Manager and referred to the City Attorney who will conduct the necessary investigation. The City Attorney will report the findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the City Manager may take appropriate action to protect the alleged victim, other employees, or citizens.

CONFIDENTIALITY

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

RETALIATION

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

7.13 SOCIAL MEDIA POLICY

Social media is changing the way we work, connect and communicate. At the City of Brooklyn Park, the City understands that social media can be a way to share information with family, friends and co-workers. However, use of social media also presents certain risks and carries with it certain responsibilities. To assist employees with making responsible decisions about use of social media, the City has established guidelines for appropriate use of social media. This policy applies to all employees who work for the City of Brooklyn Park

Guidelines

Social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, whether or not associated or affiliated with the City of Brooklyn Park. Social media tools may include:

- Social media networking sites such as Facebook, LinkedIn and MySpace
- Blogs
- Microblogs such as Twitter
- Video sharing sites such as YouTube and iReport
- Photo sharing sites such as TwitPic and Flickr
- Wikis, or shared encyclopedias such as Wikipedia
- RSS feeds
- Mobile phone content uploaded to the Internet
- Any other form of electronic communication and technology

The same principles and guidelines found in the City of Brooklyn Park policies and operational values apply to an employee's activities online. Ultimately, the employee is solely responsible for what the employee posts online. Before creating online content, consider the risks and rewards that are involved. Keep in mind that any employee conduct that adversely affects an employee's job performance, the performance of fellow employees or otherwise adversely affects residents, suppliers, or people who work on behalf of the City of Brooklyn Park may result in disciplinary action up to and including termination.

Know and follow the rules

Carefully read these guidelines, the City of Brooklyn Park Code of Ethics Policy and the Respectful Workplace Policy to ensure postings are consistent with these policies. Inappropriate postings that may include bias, discriminatory remarks, harassment, and threats of violence or similar

inappropriate or unlawful conduct will not be tolerated and may subject an employee to disciplinary action up to and including termination.

Be respectful

An employee should always be fair and courteous to fellow employees, residents, suppliers or people who work on behalf of the City of Brooklyn Park. Also, keep in mind that an employee is more likely to resolve work-related complaints by speaking directly with an employee's co-workers, supervisor, or Human Resources than by posting complaints to a social media outlet.

Nevertheless, if an employee decides to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage employees, residents or business associates, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or City policy.

Be honest and accurate

An employee must always be honest and accurate when posting information or news, and if a mistake is made, the mistake must be corrected quickly. An employee should be open about any previous posts the employee altered.

Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never upload, post or transmit any information or rumors that are false, fraudulent or misleading about the City of Brooklyn Park, fellow employees, residents, business associates, or people working on behalf of the City of Brooklyn Park.

Post only appropriate and respectful content

An employee must maintain the confidentiality of the City of Brooklyn Park's private or confidential information as well as non-public information related to coworkers, personnel data, medical information, claims or lawsuits against the City. Posting such information, including internal reports or other internal City-related confidential communications, could create liability issues for the City and for the employee posting the information.

An employee must not create a link from a blog, website or other social networking site to a City of Brooklyn Park website without identifying themselves as a City of Brooklyn Park employee.

An employee should express only personal opinions. An employee may never represent themselves as a spokesperson for the City of Brooklyn Park. If the City of Brooklyn Park is a subject of the content the employee is creating, the employee must be clear and open about the fact that they are an employee and must make it clear that the employee's views do not represent those of the City of Brooklyn Park, fellow employees, residents, business associates or people working on behalf of the City of Brooklyn Park. If the employee publishes a blog or post online related to the work the employee does or subjects associated with the City of Brooklyn Park, the employee must make it clear that the employee is not speaking on behalf of the City of Brooklyn Park. It is best to

include a disclaimer such as “The postings on this site are personal and do not necessarily reflect the views of the City of Brooklyn Park.”

Using social media at work

An employee must refrain from using social media while on work time or on equipment the City provides, unless it is work-related as authorized by the employee’s manager. An employee must not use the City of Brooklyn Park email addresses to register on social networks, blogs or other online tools utilized for personal use.

Retaliation is prohibited

The City of Brooklyn Park prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another associate for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

Media contacts

An employee should not speak to the media on the City of Brooklyn Park’s behalf without contacting the Communications Coordinator. All media inquiries should be directed to the Communications Coordinator.

For more information

If you have questions or need further guidance, please contact the Communications Coordinator or HR representative.

December 5, 2012; revised 2-15-2013

7.14 TELEPHONE POLICY

It is vitally important that City telephones be kept free in order to answer inquiries from the public and to conduct City business in an orderly, efficient and effective manner. Personal calls shall be kept to a minimum and made/received only when they do not interfere with the working operations of the City.

Personal Long Distance Policy

Personal long distance calls must be charged to a credit card, a home telephone number or placed as a collect call.

Cellular Phone Policy

This policy is intended to define acceptable and unacceptable cellular telephone use. Its application is to ensure that cellular phone use is consistent with the best interests of the City without unnecessary restriction of employees in the conduct of their duties.

Cellular telephones are intended for use by employees to conduct their work. Directors are responsible for the cellular telephones assigned to their department and will exercise discretion in

their use. Nothing in this policy will limit director discretion to allow reasonable and prudent use of telephones or equipment provided that:

1. Use in no way limits the conduct of work of the employee or other employees.
2. No personal profit is gained or outside employment is served.

Directors may authorize employees to use their personal phone for City business. Employees will not be reimbursed for business-related calls without prior Director authorization. Directors may also prohibit employees from carrying personal cell phones during working hours if it interferes with the performance of their job.

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

Personal calls will be made or received only when absolutely necessary when they do not interfere with working operations and should be completed as quickly as possible.

It is the objective of the City to prevent and correct any abuse or misuse of cellular telephones through the application of this policy. Employees who abuse or misuse telephones, may be subject to disciplinary action under the personnel policy or a collective bargaining agreement.

The City Manager, or designee, will have primary responsibility for implementation and coordination of this policy. All Directors, managers and supervisors will be responsible for enforcement within their area.

7.15 TOBACCO USE POLICY

In accordance with the Minnesota Clean Indoor Air Act, the City provides employees with the opportunity to work in a clean, healthy, smoke-free environment. This policy eliminates use of any form of tobacco in all City facilities, buildings and vehicles and is applicable to all employees, volunteers, contractors, clients, and visitors.

“Tobacco Use” is defined as the use of lighted or unlighted tobacco or tobacco-like product including cigars, cigarettes, electronic cigarettes, pipes, and chewing tobacco. Retaliation toward a complainant regarding tobacco use or rules governing tobacco is forbidden.

Enforcement

Tobacco use of any kind is prohibited for any employee while on duty. Employees age 18 and over are allowed to use tobacco only during their breaks and lunch period and only in areas designated for that purpose.

Noncompliance with this policy by employees will be treated similarly to noncompliance with any other City policy. Questions regarding policy interpretation should be directed to your supervisor, Director or HR.

The City reserves the right to modify the Smoking Policy where applicable to comply with changes in federal or state laws.

7.16 TRAVEL POLICY

Introduction

Periodically, City employees and elected officials will travel outside of the City for meetings and/or training opportunities related to their role in providing City services.

Purpose

The purpose of the Travel Policy is to establish guidelines for the reimbursement of employees and elected officials for costs incurred while traveling as representatives of the City of Brooklyn Park to meetings and/or training opportunities.

Budget Approval

Departments shall request a training and travel budget that is submitted to the City Manager and included in the final budget that is adopted by the City Council. The City Manager is responsible for including a training and travel budget for elected officials within the final budget that is adopted by the City Council.

Approvals

1. All employees seeking reimbursement for travel shall submit an expense report detailing the total expenses and providing appropriate receipts for their trip to their supervisor.
2. The expense report is to be approved by their supervisor and submitted to the Finance Department.
3. Travel by elected officials must be in compliance with the Elected Official Travel Section.

Advances

Advances are considered an exception and should be submitted to Finance with a reason for the advance and the approval of the supervisor and department director. All advances will require a travel expense form to be completed and approved after the travel has been completed. *(The use of a City Purchase Card is encouraged when possible.)*

Travel Costs

The following travel costs are eligible for reimbursement:

Transportation

- Parking Fees
- Car Rental Fees (out of state travel only)
 - Associated fuel charges are reimbursable when a receipt is provided

- Note: City insurance does not provide comprehensive or collision coverage on rental vehicles. The Loss Control Division recommends purchasing physical damage insurance from the car rental company.
- Commuter buses/trains/taxi fares (out of state travel only)
- Airfare – Coach or economy class (out of state travel only)
- Mileage at the current approved IRS rate that is in effect at the time of travel.
 - Excluding commuter miles
 - In out of state travel, the lesser of mileage versus what airfare would have cost is to be used if employee chooses to drive and the out of state travel is approved by the department director
 - Employees who receive a monthly car allowance are not eligible for mileage reimbursement

Lodging

- Lodging fees associated with trips for training or business that are longer than one day and are outside the Twin Cities Metro Area associated with a single occupancy rate.
- Lodging reimbursement requests must be accompanied by a lodging receipt from the hotel, motel, or other commercial lodging establishment.

Meals

- For same-day training or business meetings, meals will be reimbursed for the actual amount spent and will require a receipt. (City Purchase Card is encouraged to be used when possible.)
- For training or business trips that are longer than one-day, employees are entitled to a per-diem allowance any time they are in travel status.
 - Per-Diem covers expenses for breakfast, lunch, dinner, and related tips and taxes; tips to porters, baggage carriers, bellhops, maids, and other incidentals.
 - Maximum per-diem rates are prescribed for daily reimbursement of meals and incidental expenses incurred during official travel above and beyond lodging and transportation.
 - The Maximum per-diem rates used have been established by the Federal General Services Administration (GSA) and are listed at www.gsa.gov under Per-Diem.
 - Meals included in the training/meeting registration costs are to be excluded from the per-diem calculation as they are not eligible for reimbursement.
 - City Purchase Cards are not to be used for items covered under the Per-Diem.
- Alcoholic beverages are not reimbursable and are not allowed to be purchased on a City Purchasing Card.

Elected Official Travel

The City recognizes that its elected officials may at times receive value from traveling within the state or out of state for workshops, conferences, events, and other assignments. The statements below set forth the conditions under which travel by elected officials will be reimbursed by the City.

- The event, workshop, conference or assignment must be approved in advance by the City Council at an open meeting and must include an estimate of the cost of travel.
- No reimbursements will be made for attendance at events sponsored by or affiliated with political parties.

- Travel costs will be reimbursed in accordance with the Travel Costs section of this policy.
- Requests for reimbursement must be submitted with appropriate receipts on a signed travel expense form to the Finance Department for review and payment.
- Elected officials appointed to serve on a National League of Cities Policy or Steering Committee will be allowed to attend both the Congressional City Conference and the Congress of Cities.

Employee and Elected Official Responsibility

Reimbursed travel costs are those costs essential to the authorized meeting and/or training opportunity that the employee or elected official is participating in. The City of Brooklyn Park expects employees and elected officials traveling on official business to exercise the same care in incurring reimbursable travel costs that a prudent person would exercise if traveling on personal business and expending personal funds.

Implementation and Review

Upon adoption of this policy, the City Council authorizes the City Manager to establish any standards and procedures which may be necessary for its implementation. The City Manager shall review this policy periodically and make any recommendations for changes to the City Council.

Policy adopted March 4, 2013

7.17 VEHICLE/EQUIPMENT USE POLICY

PURPOSE

The purpose of this administrative policy is to outline policies and procedures regarding Vehicle/Equipment assignment, use, operation and maintenance, and reimbursement for the use of personal vehicles.

APPLICABILITY

This policy is applicable to all employees who are assigned or use City vehicles/equipment or who are reimbursed for the use of their personal vehicle for that purpose.

POLICY

- A. The use of a City vehicle or personal vehicle reimbursement will be approved only for necessary travel related to City job responsibilities and/or travel for City business. Generally, a City vehicle will be provided for City business use when available, but circumstances (including availability) may not always allow or warrant providing a vehicle.
- B. City vehicles will be assigned for use on a pool use or a 24-hour assigned basis.
 1. Pool Use Vehicle

Employees may be assigned a City vehicle as available from department vehicle pools, to conduct City business on an "as needed" basis, with the department Director's permission. Some vehicles may be assigned on an 8-hour basis if needed.

 - a. A department pool vehicle may be driven to and from the employee's residence or other location if within the City limits for lunch or a similar meal, if such use provides a more efficient utilization of the employee's time while performing his duties and is approved by the department director.

- b. Pool vehicles may be kept overnight only with department director permission.
- c. Stops for personal business other than for meals shall be limited to short stops at convenience stores, etc., and the business must be along the normal route of travel within the City limits.
- d. At no time shall non-City employees be transported in the vehicle without the City Manager's permission unless such persons are conducting business with the City.
- e. All pool use vehicles will be clearly marked and identified, with the exception of designated Police vehicles.

2. 24-hour Assigned Vehicle

Twenty-four hour assignment of vehicles will be determined on a case-by case basis by the department director and City Manager. Vehicle assignments are made at the discretion of the City Manager.

- a. Employees who regularly must respond to assignments or emergencies after regular working hours may be assigned a vehicle on a 24-hour basis.
- b. Availability for 24-hour recall to locations other than their normal place of work will be a justification and requirement for vehicle assignment.
- c. No vehicle will be assigned to personnel residing beyond a 20 mile radius limit from the center of Brooklyn Park. Exceptions from this provision may be allowed at the discretion of the City Manager.
- d. Use of the vehicle from the employee's residence to place of work shall be considered to be a benefit subject to applicable income tax provisions. The City Manager will from time to time initiate appropriate procedures to comply with applicable income tax provisions.
- e. Those persons having 24-hour assigned vehicles shall not use them for any purpose other than driving between their residences and work station. Stops for personal business other than for meals shall be limited to short stops at convenience stores, etc., and the business must be on the normal route to an employee's residence.
- f. At no time shall non-City employees be transported in the vehicle without the City Manager's permission unless such persons are conducting business with the City.
- g. All 24-hour assigned vehicles will be clearly marked and identified, with the exception of designated Police vehicles.
- h. Employees who receive a 24-hour assigned pool vehicle will not be reimbursed for travel in a personally-owned vehicle.

C. Reimbursement for Use of Personal Vehicle

The City of Brooklyn Park Reimbursement Policy is outlined in the *City of Brooklyn Park Manual of Significant Purchasing Policies and Procedures* under item 35.0 Travel Policy.

1. Methods of vehicle reimbursement in lieu of City vehicle assignment may be used if in the City Manager and department director's judgment the City's interests are better served.
2. The basis for per mile reimbursement shall be the current City vehicle reimbursement allowance rate.

D. Use of Wireless Communication Devices

The City of Brooklyn Park and its employees will comply with Minnesota State Statutes 169.011, Subd. 94 and 169.475 which prohibits the use of communication devices while operating a vehicle unless the device is integrated into the vehicle or in an authorized emergency vehicle while in the performance of official duties.

In Compliance with Minnesota State Statutes
169.011, Subd. 94 and 169.475
Effective 08/01/2019

PROCEDURES**A. Driver's License Checks**

1. To protect the City's liability exposure, periodic checks shall be made of the driver's license status of all employees who operate City vehicles. These checks shall be performed at the time of hiring or assignment to a position involving the use of City vehicles and annually thereafter for all employees who drive City vehicles/equipment. The driver's license status shall be checked to verify if the employee's driver's license is valid and properly endorsed or classified to operate the required type of equipment. The driver's license status shall be reviewed and maintained by the department Director.
2. Every employee who is assigned or who uses City vehicles, or who uses their personal vehicle for city business, shall notify the department director whenever there is a change in status or classification of his or her driver's license which is relevant to the continued operation of City vehicles. Such notification shall be made before the next work shift.
3. No employee is allowed to operate a City vehicle or operate a personal vehicle for City business without a valid driver's license.
4. Employees who operate private vehicles consistently for City business shall provide proof of insurance to Loss Control.

B. Damage to Vehicles/Equipment

1. Every employee shall notify the department director as soon as possible of any damage to a City vehicle, another vehicle and/or personal injury, when the employee has been driving the vehicle or when the vehicle has been in the employee's possession or control.
2. The employee shall complete a City accident form and submit it to Loss Control.

C. Operation of Vehicles/Equipment

1. The City conducts training and requires qualification to operate vehicles/equipment. It is the department director's responsibility to assure that adequate training is provided to operators of such vehicles/equipment and implement these provisions.
2. All employees who drive in the course of employment will attend the driver improvement course and periodic refresher courses provided by Loss Control Division.
3. Any employee involved in a motor vehicle accident while on duty who is operating or responsible for such vehicle/equipment may be required to attend the City's/Department's driver improvement course as soon as practical.
4. No employee shall be allowed to operate vehicles/equipment, except for training purposes, other than automobiles and light trucks until he or she has met qualifications to operate the equipment.

5. Qualifications of operators will be conducted by in-house skilled operators. A record of qualification will be maintained by the assigned department.
6. The qualification of an employee to operate a vehicle/equipment may be revoked if:
 - a) It is found that the employee cannot operate the vehicle/equipment in a responsible manner.
 - b) Has incurred medical restrictions which limit the employee's ability to operate vehicles/equipment in a safe manner.
7. Engine idling procedure for gasoline-powered vehicles and equipment.
 - a) Limit vehicle/equipment morning warm-up to no more than three (3) minutes, unless the manufacturer specifically recommends a longer period.
 - b) When the vehicle/equipment is parked for more than three (3) minutes, the engine should be shut down.
 - c) In emergency situations, or other unusual situations where the resolution of the situation is critical and outweighs the rationale for the restriction of vehicle/equipment engine idling, the procedure may be waived.
 - d) On duty, front-line police patrol (squad cars) and fire suppression vehicles (pumper/utility/command vehicles) are exempt from this policy.

Administrative Policy Number: O&M 2.50

Established: 5/17/93

Last Revision: 5/19/08

Originating Dept: Operations & Maintenance

7.18 VIOLENCE AND THREATENING BEHAVIOR POLICY

Violence, or the threat of violence, has no place in any City work locations. It is the shared obligation of all employees, law enforcement agencies and employee organizations to individually and jointly act to prevent or defuse actual or implied violent behavior at work.

Violence or the threat of violence, by or against any employee or other person is unacceptable and contrary to policy, and will subject the perpetrator to serious disciplinary action and possible criminal charges. The City will work with law enforcement to aid in the prosecution of anyone outside of the organization who commits violent acts against employees.

Dealing with the Public

While the City has a strong commitment to customer service, the City does not intend for employees to be subjected to physical or verbal abuse by any customer. A supervisor or police officer should be requested to intervene when a customer is abusive, or the employee may defuse the situation themselves, including ending the contact.

Off-the-Job

An employee may be involved in a personal non-criminal dispute with family members or neighbors. Individuals may secure an "Order of Protection" or an "Injunction Against Harassment" or similar order from the court. If an employee requests a court order, the employee should include the work location, inform the supervisor of the order, and provide a description of the individual cited in the order. The supervisor shall inform employees who may come in contact

with the subject, provide a description of the subject and instructions on actions to be taken if the subject comes to the work location. In any and all cases, if there is an immediate need for Police Department intervention, call 911.

Action

Any person who fears that physical retaliation may take place or where someone has made verbal threats of physical violence should immediately contact a supervisor. When extreme conditions dictate, 911 may be called. Employees should leave the area immediately when violence is imminent unless their duties require them to remain.



SECTION 8 SAFETY AND HEALTH

The personal safety and health of each employee are of primary importance. It is the goal of the City to prevent injuries and illnesses and to maintain a safe and hazard-free work environment.

8.01 AUTOMOBILE ACCIDENT

If an employee is driving a City-owned vehicle, these steps must be followed:

- Call 911 to report the accident
- A police officer should arrive at the scene to write a police report, which will be needed to file the insurance claim
- Notify your supervisor
- Obtain identifying data from the driver of the other vehicle (name, address, phone, insurance company and policy number)
- Secure names and addresses of injured individuals and/or any witnesses to the accident
- Supervisor and/or employee must complete an *Accident/Incident Report Form* and submit within one (1) business day of receiving the information

Forms can be faxed to Loss Control at 763-315-8448 and followed up with the original form.

8.02 CPR, AED AND FIRST AID TRAINING

The City offers employees an opportunity to participate in CPR, AED and First Aid Training. These courses are offered on an ongoing basis free of charge. Upon completion of the course, the employee will receive a certification card.

8.03 DEFENSIVE DRIVING COURSE

Employees who drive a City vehicle or their personal vehicle for City business should participate in a defensive driving course. The City offers the Smith System Driving Course to employees at no charge on an ongoing basis. Upon completion of the course, the employee will be given a certificate, which may offer a discount to their personal insurance.

8.04 ON THE JOB INJURY

All employees are covered by Workers' Compensation insurance, which may provide payment for medical bills and wage continuance to employees who suffer personal injury or illness during the course of their employment. Workers' Compensation benefits are administered by Human Resources.

All injuries must be reported to the supervisor. If an employee is injured on the job, the employee must follow these important steps:

- Call 911 if the injury is life threatening
- Report the injury to your supervisor
- Go directly to the primary medical facility (MN Occupational Health, 10230 Baltimore Street #300; Blaine, MN 55449; (651) 968-5300) or an emergency facility (Maple Grove or North Memorial Hospitals) if medical attention is needed. Make sure you let them know this is a Workers' Compensation injury.
- Supervisor and employee must complete an *Accident/Incident Report Form* and submit within one (1) business day of receiving the information
- Forms can be faxed to Loss Control at 763-315-8448 and followed up with the original form

8.05 SAFETY AND HEALTH PROGRAM

To be successful, the City Safety and Health Program must be the shared responsibility of all employees. The entire Health and Safety Program (which includes the safety rules and regulations and forms) can be viewed on the City intranet site, titled Health, Safety and Wellness. There is a drop down option called "Health and Safety Program."

The Safety Committee is composed of supervisory and line employees from each department. The committee members promote safety programs for employees, recommends changes or additions to rules in order to comply with safety and health standards, and reviews vehicle accidents and personal injuries. Committee membership is rotated to afford employees an opportunity to be involved.

8.06 WELLNESS PROGRAM

LiveWELL, the City Employee Wellness Program, is an employee-centered program intended to promote healthy living and improve quality of life by motivating and assisting employees to reduce health risks. The program includes annual lab and fitness assessments, goal setting, referrals and a cash incentive program for regular full- and part-time employees. The program includes informational events and activities to promote physical activity and wellness. The informational events and activities are available to all employees. A detailed description of the Wellness Program can be viewed on-line from the City Intranet homepage, under the navigational menu box titled "Health, Safety and Wellness."

The long-term goals of the Wellness Program are to decrease healthcare costs and to increase employee morale, productivity, and overall health and well-being. To meet City goals, the program will also accomplish the following:

- Identify and reduce health-related risk factors
- Increase preventative health and detect health problems early
- Improve cardiovascular fitness, flexibility and core strength



SECTION 9 EMPLOYEE BENEFITS

The following employee benefits are designed to enhance your employment with the City of Brooklyn Park and represent a solid investment by the City in its employees.

The City of Brooklyn Park will periodically review the benefits program, when appropriate, to add benefits or revise existing programs. Therefore, the City may change, delete, modify or otherwise revise employee benefits, premium amounts, eligibility requirements and/or administrative procedures regarding benefits at any time at its discretion without prior notice to employees, unless otherwise prescribed by law.

The benefits outlined in this section are offered at the City's discretion to eligible employees and should not be construed as a claim of entitlement to the benefits. Employees covered by collective bargaining agreements should consult their respective agreement for information regarding insurance benefits.

Provisions in Section 9 that describe various plans and insurance policies are for general informational purposes only. For exact plan details, refer to the Summary Plan Descriptions or other plan documents. The Summary Plan Descriptions and plan documents take precedence over this Handbook. Coverage is subject to the terms, conditions, restrictions and other eligibility requirements set forth in the plan document, and the plan document is the final authority in terms of eligibility and coverage.

Plan documents and additional benefit details and information, including employee eligibility, enrollment, and effective dates, are available by contacting the Human Resources Division. However, ultimate coverage and claim determinations are made by the carriers and are not the responsibility of the City.

9.01 COBRA CONTINUATION COVERAGE

The Federal Consolidated Omnibus Budget Reconciliation Act, also known as COBRA (which may be amended from time to time) gives employees and/or their dependents a continuation of health and dental coverage in certain instances where coverage under the plan would otherwise terminate due to a "qualifying event." Some common qualifying events are: loss of employment, leave of absence, changes in marital status or when a dependent child reaches coverage termination age. It is the employee's obligation to notify Human Resources of any of these "qualifying events."

When an employee terminates City employment, for whatever reason, the shared cost of health and dental insurance will continue to the end of the month. The employee will be offered an opportunity to continue health, dental and life coverage at their own expense, plus an administrative fee, for a period up to eighteen (18) months. The employee also may continue coverage for a Flexible Spending Account (FSA). Upon termination, the employee, the employee's spouse and eligible dependents will be provided COBRA notifications via mail.

In case of the death of an employee, the spouse and/or children of the employee may elect to continue coverage at their own expense as allowed by state and federal law. Dependents may discontinue coverage at any time upon written notice.

Insurance coverage extended by COBRA will be discontinued if:

- You fail to make timely payment of the premium
- You obtain other coverage, or
- You become eligible for Medicare

NOTE: Written notice of cancellation will be given to the individual covered by COBRA fifteen (15) days prior to actual cancellation.

See information in Section 9.08 "Insurance, Health" concerning retirement.

9.02 COLLEGE SAVINGS PLAN

The City offers a 529 College Savings Plan. Contributions to the plan may be made through payroll deduction.

9.03 CREDIT UNION

Employees are eligible to join Wings Financial. The credit union offers a wide variety of services, including credit cards, checking, savings, personal, auto and home mortgage loans, and 24-hour cash machines.

9.04 DEFERRED COMPENSATION PLAN

An employee-managed pre-tax savings and investment program is available through payroll deduction for a retirement/deferred compensation program. Two 457 deferred compensation plans are currently available: ICMA and Minnesota Deferred Compensation Plan (MNDCP). Participation is voluntary.

9.05 EMPLOYEE ASSISTANCE PROGRAM

The City provides an Employee Assistance Program (EAP) for employees and their immediate family members. Services provided by the program are paid for by the City. Total Employee Assistance Management (T.E.A.M.) is the provider and may be contacted by emailing teaminc@team-mn.com, by calling 651-642-0182, or by visiting the web site, www.team-mn.com.

This program is designed to provide a confidential service to address a wide range of issues such as, but not limited to:

Abuse/Trauma	Elder Care
Addictions	Family/Marital Counseling
Anger Management	Finances
Anxiety	Legal
Depression	Stress

Confidentiality is one of the most important aspects of the program. When the EAP is contacted, no individual information concerning the nature of the issue will be released.

The City assumes the costs for the EAP initial services as part of the benefits package. If additional counseling is required, a referral may be made to professionals outside the EAP's network. Costs not covered by medical insurance (i.e., co-pays, deductibles) become the individual's responsibility.

9.06 FLEXIBLE SPENDING ACCOUNT (FSA)

A flexible spending account program permits an employee to set aside contributions for medical/dental/vision and dependent daycare expenses on a pre-tax basis. The City contracts with a third-party vendor to administer the plan. It is the sole responsibility of the employee to monitor account balances and to ensure appropriate reimbursable receipts, documentation and reimbursement requests are properly submitted in a timely manner for vendor processing. An employee must incur eligible expenses between January 1 and December 31 each year and file claims to be reimbursed for those expenses by February 14 of the following plan year. In accordance with federal law, account balances not reimbursed by February 14 following the plan year will be forfeited to the plan; it is a use-it or lose-it plan.

9.07 INSURANCE, DENTAL

Eligibility. All regular full-time employees and their legal dependents are eligible for dental insurance coverage. An employee may waive dental insurance if proof of insurance under an immediate family member or partner is provided, or allowed by bargaining agreement.

Premium Payments. Employees pay pre-tax premium expenses through payroll deduction.

Effective Date of Coverage. Coverage becomes effective on the first day of the month following thirty (30) calendar days of employment.

Coverage During Approved Leave of Absence without Pay. See information in Section 10, Leaves of Absence.

9.08 INSURANCE, HEALTH

Eligibility. All regular full-time employees and their legal dependents, including part-time employees who work 1,560 or more hours during the annual benefit eligibility period, are eligible for health insurance coverage. An employee must enroll in the City's group health plan unless proof of insurance under an immediate family member or partner is provided. An employee eligible to waive enrollment in the City's group health plan will receive a monthly dollar amount (determined and approved by the City Council) added as taxable income to the employee's pay.

Premium Payments. The City Council determines the City's monthly contribution toward the premium. An employee pays any remaining pre-tax premium expenses through payroll deduction.

Effective Date of Coverage. Coverage becomes effective on the first day of the month following the first thirty (30) calendar days of employment.

Coverage During Approved Leave of Absence without Pay. See information in Section 10, Leaves of Absence.

Retirement of an Employee. A qualified employee retiring from the City may elect to purchase, at personal expense, health coverage that is actuarially equivalent to plans made available to regular full-time employees.

Eligibility applies to a retiring employee who is either:

- Receiving a disability benefit or retirement annuity from a Minnesota pension plan other than a volunteer firefighter plan; or
- Meets the age and service requirements necessary to receive an annuity from a public pension plan.

A retiring employee may purchase dependent coverage only if their dependents were covered by the City at the time the employee retires. Dependent coverage terminates upon the death of the retired employee.

An employee who retires from the City and who does not meet the above eligibility guidelines, or is over 65 years of age, will have the option of continuing medical insurance under the provisions provided by the COBRA law. Full premiums must be paid by the retiree.

9.09 INSURANCE, LONG-TERM DISABILITY (LTD)

Long-term disability insurance is intended to help protect your income in the event of a covered disability that keeps you out of work for an extended period of time. Conditions that could lead to long-term disability claim might include: surgery, injury, illness or an accident. LTD insurance provides 60% of the employee's regular base wage at the time of disability up to a specified plan maximum until Social Security Normal Retirement Age.

Eligibility. All regular full-time employees are eligible to apply for voluntary, employee-paid long-term disability insurance.

Premium Payments. The premium is paid with a portion of the employee's bi-weekly sick leave accrual.

Effective Date of Coverage. If a new employee elects coverage, LTD begins on the first day of the month following thirty (30) days of employment.

Effective Date of a Disability Benefit. The first day following ninety (90) calendar days of a qualifying absence. Accrued sick leave hours must be exhausted prior to receiving a benefit under LTD.

Continuance of Coverage. Insurance will be discontinued on the first of the month following the date of termination or at retirement.

Coverage During Approved Leave of Absence without Pay. See information in Section 10, Leaves of Absence.

9.10 INSURANCE, SHORT-TERM DISABILITY (STD)

Short-term disability insurance is intended to help protect your income in the event of a covered disability that keeps you out of work for up to 90 days. STD coverage is provided for off-job accidents and off-job sickness. Conditions that could lead to short-term disability claim might include: child birth, surgery, injury, illness or an accident. STD insurance provides 60% of the employee's regular base wage at the time of disability up to a specified plan maximum.

Eligibility. All regular full-time employees are eligible to apply for voluntary, employee-paid short-term disability insurance.

Premium Payments. The premium is paid by the employee through convenient payroll deductions. Premium rates are based on various factors.

Effective Date of Coverage. If a new employee elects coverage, STD begins on the first day of the month following thirty (30) days of employment. Employees may enroll in STD coverage at any time. Employees may cancel STD coverage at any time.

Effective Date of a Disability Benefit. There are two waiting periods prior to receiving a benefit under STD: 7-day, or 14-day elimination period.

Continuance of Coverage. Insurance will be discontinued on the first of the month following the date of termination or at retirement.

Coverage During Approved Leave of Absence without Pay. See information in Section 10, Leaves of Absence.

9.11 INSURANCE, TERM LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT

Eligibility. The City provides all regular full-time employees with a basic group \$10,000 term life and accidental death and dismemberment insurance policy.

Premium Payments. The basic group term life insurance premium expense is paid by the City. Optional voluntary life and accidental death and dismemberment insurance plans are available to regular full-time employees subject to evidence of insurability. Dependent voluntary life insurance is available for eligible dependents, including your lawful spouse and unmarried children. Premiums are the responsibility of the employee and are paid through payroll deduction.

Effective Date of Coverage. Basic Group Term coverage becomes effective on the first day of the month following the first thirty (30) calendar days of employment.

Continuance of Coverage. Upon termination of employment, insurance and premium payments will be discontinued on the first of the month following the date of termination. Pursuant to state law, a terminating employee may elect to continue life insurance coverage for up to eighteen (18) months at the employee's expense.

Coverage During Approved Leave of Absence without Pay. See information in Section 10, Leaves of Absence.

PERA Life Insurance. The Public Employee's Retirement Association (PERA) provides a voluntary decreasing term life insurance plan for employees and dependents. Participation is voluntary; premiums are the responsibility of the employee and are paid through payroll deduction.

9.12 PERA RETIREMENT PLAN

Public Employees Retirement Association (PERA) is a mandatory public pension plan, also known as a defined benefit plan, which will provide public employees with a lifetime retirement benefit. The employee and the employer each make a contribution based on the employee's earned gross income each pay period.

PERA is a tax-qualified plan under Section 401(a) of the Internal Revenue Code. As a result, your federal and state taxes on PERA contributions are deferred until benefit withdrawals begin. Pension benefits are based on a formula that takes into consideration three factors: the employee's age, years of covered service and high-five average salary.

PERA is a system provided by state law, and may be amended from time to time.

9.13 RETIREMENT HEALTH SAVINGS PLAN

The City established a Retirement Health Savings Plan (RHSP) as an employer-sponsored benefit program that will allow certain employees to invest money on a tax-free basis to pay for eligible health care expenses upon termination of employment. Employees may choose investment options and accumulate tax-free funds to be used for approved health care expenses.

The following employees or employee groups are eligible to participate in the RHSP:

Group 1 – Bargaining Units. Benefit contributions are negotiated or agreed to by the bargaining unit and employer in a contractual agreement or Memorandum of Understanding (MOU). Refer to the collective bargaining agreement for details.

Group 2 – City Manager. The City Manager, appointed as an employee of the City of Brooklyn Park by the City Council.

Group 3 – Department Directors. Department Directors are defined as individuals appointed by the City Manager and approved by the City Council to act as the principal authority for each of the following departments: Community Development, Finance, Fire, Operations and Maintenance, Police, and Recreation and Parks. An individual appointed as “acting” or “interim” director is not eligible for RHSP under this policy.

9.14 SOCIAL SECURITY AND MEDICARE

The United States government operates a system of contributory insurance known as Social Security. Social Security is funded through mandatory payroll taxes called Federal Insurance Contributions Act tax (FICA). The employer and the employee are each responsible for one-half of the Social Security tax, with the employee’s portion being withheld from each paycheck by the employer.

An additional payroll tax is used to fund the Medicare program, which is responsible for providing health benefits to retirees.

9.15 UNEMPLOYMENT COMPENSATION

The City pays the full cost of Unemployment Insurance, but the City does not decide who is eligible for benefit payments or the amount of the payments. State law covering Unemployment Insurance determines eligibility and the payment amount.



SECTION 10 LEAVES OF ABSENCE

If you have questions about leave eligibility within this section, you are encouraged to discuss them with your supervisor, Department Director and Human Resources. The City Manager has final approval over all leaves of absence requests.

10.01 BEREAVEMENT LEAVE

An employee shall be allowed to use sick leave to attend the funeral of any individual. The amount of sick leave approved by the supervisor shall depend upon the circumstances surrounding the sick leave request.

Regular full- and part-time benefited employees may use up to five (5) days of accrued sick leave per bereavement leave occurrence for the death of an immediate family member, household member or co-worker.

An employee who needs time off for eligible bereavement purposes must immediately notify his/her supervisor.

An employee may use accrued vacation or *Voluntary Leave Without Pay* for additional time off with supervisor approval.

Bereavement leave due to the death of a co-worker will be granted unless there are unusual operational or staffing requirements. An employee may, with supervisor approval, attend the funeral of a co-worker during regularly scheduled working hours with no loss of pay as long as the absence is less than the equivalent of a regularly scheduled shift.

Bereavement leave requests for any reasons not addressed by this policy shall be reviewed and evaluated by Human Resources and the City Manager on a case-by-case basis depending upon the individual circumstances surrounding the request.

Union employees must refer to their labor agreements for bereavement leave provisions.

Definitions

Immediate family – The employee’s spouse, parent, step-parent, child, step-child, brother or sister; the employee’s spouse’s parent, step-parent, child, step-child, or brother or sister; the employee’s child’s spouse; grandparents, step-grandparents, grandchildren or step-grandchildren.

Household member – Any person who shares a significant relationship with the employee and resides in the same household as the employee.

10.02 BONE MARROW DONATION LEAVE

An employee who works an average of twenty (20) or more hours per week may take employer provided paid leave, not to exceed forty (40) paid hours unless agreed to by the City, to undergo a medical procedure to donate bone marrow, per Minn. Stat. §181.945. Verification by a physician of the purpose and length of leave is required. If there is a medical determination that the employee does not qualify as a donor, the paid leave taken prior to the medical determination is not forfeited. Vacation, sick leave and holiday time will accrue during the leave.

10.03 CANCELLATION OF LEAVE

The City Manager may cancel any leave of absence, where allowed by law, if it is determined the leave is not justified. The employee will receive a written notice specifying a reasonable return to work date.

10.04 FAMILY AND MEDICAL LEAVE ACT (FMLA)**PURPOSE**

The City of Brooklyn Park complies with the Family Medical Leave Act (FMLA) that is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity.

POLICY

The City of Brooklyn Park will provide up to twelve (12) work weeks of unpaid, job-protected FMLA leave to eligible employees during any twelve (12)-month period for specific family and medical reasons.

ELIGIBLE EMPLOYEES

Eligible employees are those employees who:

1. Have worked for the City of Brooklyn Park for a total of twelve (12) months (does not have to be twelve (12) consecutive months).
2. Have worked at least 1,250 hours within the previous twelve (12)-month period (sick leave, vacation time and holiday pay do not count toward eligibility).

CIRCUMSTANCES COVERED

FMLA leave will be granted to an eligible employee for any of the following reasons:

1. For the birth and care of a newborn child of the employee.
2. For placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child.
3. To care for a spouse, son, daughter, or parent with a serious health condition;
4. To take medical leave when the employee is unable to work because of a serious health condition.
5. For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status; up to a total of twenty-six (26) work weeks of unpaid leave in a single twelve (12)-month period is available to an employee who is a spouse, son, daughter, parent or next of kin.
6. To care for a covered military service member with a serious injury or illness incurred in the line of duty or active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, therapy, outpatient status, or is on a temporary disability retire list.
7. A veteran who was discharged or released under conditions other than dishonorable at any time during the five (5)-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

SERIOUS HEALTH CONDITION

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
- A period of incapacity requiring absence of more than three (3) consecutive calendar days from work that also involves two (2) or more visits to a health care provider within thirty (30) days of the date of incapacity; or one (1) visit to a health care provider AND a continuing regimen of treatment.
- Any period of incapacity related to pregnancy or for prenatal care.
- Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time that requires at least two (2) visits per year to a health care provider and may involve occasional episodes of incapacity.
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required instead of active treatment.
- Any absence to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

LENGTH OF LEAVE

The length of FMLA is not to exceed twelve (12) weeks in any twelve (12)-month period. The entitlement to FMLA leave for the birth or placement of a child expires twelve (12) months after the birth or placement of the child.

A one-time FMLA leave of up to twenty-six (26) weeks is allowed in a single twelve (12)-month period to eligible employees to care for an injured or ill military service member.

LEAVE YEAR

The leave year is a twelve (12)-month period that will begin with the first day the employee begins FMLA leave.

EMPLOYEE NOTICE

An employee must provide thirty (30) days advance notice to Human Resources if the leave is foreseeable. When thirty (30) days notice is not possible, the employee must provide notice as soon as practicable. An employee must provide sufficient information to the City to reasonably determine if the leave qualifies under FMLA protection and the anticipated timing and duration of the leave. The *Employee Request for Leave of Absence* form is available from Human Resources or on the employee intranet.

Human Resources will review the employee's leave request and provide a *Notice of Eligibility and Rights & Responsibilities* determination within five (5) business days.

MEDICAL CERTIFICATION

An employee must provide a medical certification if the employee is using FMLA leave for the serious health condition of the employee or the employee's spouse, son, daughter, or parent. This certification is NOT required for pregnancy or if the employee is on workers' compensation. The *Certification of Health Care Provider* form is available from Human Resources.

Medical certification must be completed by the attending physician or practitioner and provided by the employee to Human Resources within 15 days of the FMLA leave request or as soon as reasonably possible.

The City of Brooklyn Park may require a second or third opinion at the City's expense, periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

All documentation related to the employee or the family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

USE OF VACATION AND SICK LEAVE

An employee must use all accrued sick leave, vacation leave (an employee may keep up to 40 vacation hours), and compensatory time while on any FMLA leave prior to using unpaid leave. The use of sick leave, vacation leave, and compensatory time occurs simultaneously with FMLA leave and does not extend the length of FMLA leave.

BOTH SPOUSES EMPLOYED BY THE CITY

When both spouses work for the City of Brooklyn Park, each spouse may take up to twelve (12) weeks of FMLA leave per leave year for their own serious illness. The leaves may run simultaneously.

If both spouses work for the City of Brooklyn Park, their total leave in a twelve (12)-month period may be limited to an aggregate of twelve (12) weeks for either the birth or placement for adoption or foster care of a child or to care for a sick parent.

INSURANCE CONTINUATION

An employee on FMLA leave may continue existing health, dental, and life insurance if they choose to do so. These benefits will be maintained under the same terms, conditions, and at the same level of City contribution as before the employee goes on leave. If there are changes to the City's contribution levels and/or premium rates while the employee is on leave, those changes will take place as if the employee were still on the job. The employee will be required to continue payment of the employee's share of the premiums while on leave.

The employee may choose not to continue health care or other insurance coverage during any unpaid time during an FMLA leave. When the employee returns from leave, the employee will be reinstated on the same terms as prior to taking leave, without any qualifying period, physical examination, exclusion of preexisting conditions or other requirement.

PREMIUM REIMBURSEMENT

The employee may be required to reimburse the City for any premiums paid during the leave if the employee does not return to work upon the completion of an approved FMLA leave unless the employee cannot return to work due to the continuation of a serious health condition of the employee, spouse, child or parent, or due to other circumstances beyond the control of the employee.

STATUS OF BENEFITS

The employee will not accrue benefits such as seniority, vacation and sick leave while on *unpaid* FMLA leave unless the employee also applies for and is approved for Voluntary Leave Without Pay. Employees using *paid* leave will continue to accrue benefits.

If applicable, step increases and probationary periods may be extended by the length of any *unpaid* leave. An *unpaid* leave, however, does not constitute a break in service for the purposes of eligibility for pension and retirement benefits.

REINSTATEMENT

Upon return from leave, an employee will be returned to the employee's former position, or one of equivalent pay, benefits, terms and conditions of employment.

However, if the employee is a key employee whose salary is within the top ten (10) percent of all City employees, the employee may not be entitled to reinstatement protection to the same or equivalent position if the absence would result in substantial economic harm to the City's operations.

INTERMITTENT LEAVE

Leave may be taken intermittently or on a reduced schedule if medically necessary. If not medically necessary, Department Director, Human Resources Manager, and City Manager approval is required. The City may require the employee to transfer to an alternative position with like status and pay while on intermittent leave. If leave is taken intermittently, it will not affect the status of an exempt employee under the Fair Labor Standards Act. All requests for intermittent leave will be reviewed and evaluated on a case-by-case basis.

RETURN TO WORK

The employee will be required to submit a fitness for duty *Workability Form* from the treating physician to Human Resources prior to returning to work if the FMLA leave was for the employee's own serious health condition.

EFFECT ON THE UNPAID LEAVE OF ABSENCE POLICY

FMLA leave is not intended to conflict with the City's Unpaid Leave of Absence policy. That policy will continue to apply in situations not addressed by the FMLA.

WHEN POLICIES CONFLICT

When provisions of other City policies are in conflict with the Family Medical Leave Act, those policies which are most beneficial to the employee will apply unless they contradict the requirements of the FMLA.

CITY RESPONSIBILITIES

The City is prohibited from interfering with, restraining, or denying an employee any right provided under the FMLA law. An employee may not be discharged or discriminated against for opposing any unlawful practices under the FMLA, or involvement in a proceeding under or related to the FMLA.

ENFORCEMENT OF FMLA

If an employee is not satisfied with the City's implementation of the FMLA, the employee may file a complaint with the United States Department of Labor or may bring a private lawsuit against the City. The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

GENERAL SUMMARY

This policy is intended to be a general summary of the law. Each situation will be evaluated on a case-by-case basis.

ADDITIONAL INFORMATION

For further information and assistance, contact the Human Resources Manager.

10.05 HOLIDAYS

The following twelve (12) holidays will be observed by the City:

- New Year’s DayJanuary 1
- Martin Luther King’s Birthday.....Third Monday in January
- Presidents’ DayThird Monday in February
- Memorial Day.....Last Monday in May
- Independence DayJuly 4
- Labor DayFirst Monday in September
- Veterans Day.....November 11
- Thanksgiving DayFourth Thursday in November
- Friday after Thanksgiving Day.....Fourth Friday in November
- *Christmas Eve.....December 24
- *Christmas DayDecember 25
- Floating HolidayMay be used at any time with supervisor approval

If a holiday falls on a Saturday, the day before is observed as the holiday. If a holiday falls on a Sunday, the day after is observed as the holiday.

*If December 24 (Christmas Eve) or December 25 (Christmas Day) falls on a Saturday or Sunday, an employee shall be permitted one floating holiday for the Christmas Eve holiday to be used between October 1 and by December 31 of the calendar year. The request for leave must be approved in advance by an employee’s supervisor.

Regular part-time employees receive four (4) hours of holiday pay for each holiday. Holiday pay shall not be paid during a leave of absence without pay.

10.06 INJURY LEAVE, WORK-RELATED

Work-related injuries may qualify an employee for benefits under the City's Workers' Compensation Insurance. An employee may apply accrued sick, vacation, holiday and compensatory time to any portion of their salary not covered by Workers' Compensation. When receiving Workers' Compensation and using sick, vacation, holiday or injured-on-duty-pay, an employee will accrue leave benefits based on the number of hours of paid leave. Union members should consult their union contract.

Continuation of Insurance

The City's contribution to an eligible employee for health insurance will continue as long as the employee is on paid leave. Workers' Compensation and FMLA leave run concurrently. After both FMLA and paid leave have been exhausted, an employee has the option to continue insurance at their own expense until they return to work or terminate employment with the City.

Return to Work

If the employee is offered a medically-approved "light duty" position, the employee may decline the position and choose to use sick leave, vacation or comp time. If the employee chooses not to accept the light duty position, Workers' Compensation lost-wage benefits may not be available.

10.07 INVOLUNTARY LEAVE (ADMINISTRATIVE LEAVE)

At the City Manager's discretion, an employee may be placed on paid or unpaid involuntary leave pending the outcome of an internal or external investigation or any matter deemed necessary by the City Manager.

10.08 LEAVES OF ABSENCE – OTHER

The City Manager may grant a regular full- or part-time employee a leave of absence without pay under the provisions of FMLA for a period of twelve (12) weeks in a twelve-month period. The City Manager may extend the leave for a period of one (1) year in case of disability or extraordinary circumstances. The City Manager may grant a regular full- or part-time employee a leave of absence without pay for a period of up to 90 days for non-medical reasons.

A leave of absence without pay for illness or disability may be granted after all sick leave is exhausted and combined holiday and vacation accruals in excess of forty (40) hours are exhausted, except where such leave qualifies as parental leave. Non-medical leaves of absence without pay may be granted after vacation and holiday accruals in excess of forty (40) hours are exhausted.

Any employee placed on a leave of absence without pay for non-medical reasons shall have the employee anniversary (service) date extended by the amount of the leave taken.

City contributions for leave accrual and insurance coverage will cease for non-medical leaves without pay. Insurance benefits may continue if fully paid by the employee. Insurance coverage begins the first day of the month following thirty (30) days of the return-to-work date if a returning employee opted not to continue insurance coverage during a non-medical leave of absence.

10.09 MILITARY SERVICE LEAVE OF ABSENCE

State and federal laws provide protections and benefits to a City employee who is called to military service, whether in the reserves or on active duty. Such employee is 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 fifteen (15) days in any calendar year.

The leave of absence is only in the event the employee returns to employment with the City as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. An

employee on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the City at least ten (10) working days in advance of the requested leave. If an employee has not yet used his/her fifteen (15) days of paid leave when called to active duty, any unused paid time will be allowed for the active duty time, prior to the unpaid leave of absence.

An employee must apply for reinstatement within ninety (90) days after military release and have certification of satisfactory completion of the period of active duty in order to receive reinstatement rights. An employee returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

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

10.10 PARENTAL LEAVE

State and federal law provide for parenting leave. Under Minnesota Statutes §181.940 and §181.941, as may be amended, a mother or father is allowed up to twelve (12) weeks of parenting leave upon the birth or adoption of a child if you work at least twenty (20) hours per week and have been with the City for at least twelve (12) consecutive months. Parenting leave must be taken within twelve (12) months of the birth or placement, and must be taken in a single consecutive period, and may not be taken intermittently or on a reduced-schedule basis, unless approved by a doctor. While on parenting leave, the City will require an employee to use accrued paid leave, including sick leave or paid vacation, during the twelve (12) weeks an employee is taking parenting leave, with the exception of reserving up to forty (40) hours of vacation accrual. This type of parenting leave runs concurrently with FMLA leave, if applicable.

In addition, the City provides its employees with two weeks of paid parenting leave under the following conditions.

If the employee becomes a biological or adoptive parent after working for the City for the preceding twelve (12) consecutive months for an average of twenty hours per week or more, the City will provide:

Week One: (five consecutive days) of paid parenting leave, provided that:

- The leave shall be taken within twelve calendar weeks of the birth or placement of the child;
- The leave shall be aside from and not intended to affect any state or federal law provision of parenting leave to which the employee may be entitled; and

If the parent has used Week One of the City's offered parenting leave for the birth or placement of a child, the parent may utilize:

Week Two: (five consecutive days) of paid parenting leave, provided that:

- The employee has first taken 12 weeks of FMLA parenting leave under the City's FMLA policy or 12 weeks of leave under the state parenting leave law;
- The employee utilizes **week two** of paid parenting leave immediately after twelve consecutive weeks of parenting leave taken by the employee under state or federal law; and
- The employee utilizes week two of paid parenting leave within 24 weeks of the birth or placement of the child.

This Policy does not apply to independent contractors. The Policy will take effect October 28, 2014.
Revised December 12, 2016

Adopted by City Council Resolution
Resolution #2014-229
October 27, 2014

10.11 PARENTAL LEAVE FOR SCHOOL- RELATED ACTIVITIES

Any employee who has worked half-time or more for more than twelve (12) consecutive months, may take unpaid leave for up to a total of sixteen (16) hours during any school year to attend school conferences or classroom activities related to the employee's child (under age eighteen (18) or under age twenty (20) and still attending secondary school), provided the conference or classroom activities cannot be scheduled during non-work hours.

10.12 SICK LEAVE

Sick leave is an authorized absence from work with pay granted to a qualified full- or part-time employee.

A regular full-time employee earns sick leave at the rate of one (1) day per month with unlimited accumulation. Sick leave must be used in one (1) hour increments.

A regular part-time employee who works at least twenty (20) hours per week on a regular basis must also use a minimum of one (1) hour per occurrence and earn sick leave on a prorated basis of the full-time employee schedule. A part-time employee who works fewer than twenty (20) hours per week on a regular basis will not earn or accrue sick leave.

Sick leave may be used as it is earned. Accrual of sick leave is unlimited; however, an employee who accumulates 720 hours of sick leave shall convert additional sick leave accruals as follows: one-half will be converted to vacation and one-half will remain as sick leave.

Sick leave may be taken for the following reasons:

- Personal illness, injury or disability
- Medical, dental or other care provider appointments during working hours
- A family health matter related to spouse, child, stepchild, grandchild, foster child, mother, father, stepmother, stepfather, grandparent, brother or sister
- Bereavement as defined in Section 10.01

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

1. Communicate with the immediate supervisor as soon as possible after the scheduled start of the work day.
2. Keep the immediate supervisor informed about the status of the illness/injury or the condition of the family member.
3. Submit a physician's statement upon request.

After an absence, a physician's statement may be required on the employee's first day back to work, indicating the nature of the illness, injury, or medical condition and confirming the employee's ability to return to work and safely perform the essential functions of the job.

The City has the right to request information sufficient to determine the validity of an employee's sick leave claim or to obtain information related to work restrictions or an employee's ability to work. The City will arrange and pay for an appropriate medical evaluation when it is required by the City.

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

Please refer to Section 7.08 for the City's Leave Donation Policy.

10.13 UNAUTHORIZED LEAVE OF ABSENCE

Any absence from duty without proper authorization may be grounds for disciplinary action, including but not limited to discharge. An employee absent without leave for a period of three (3) duty shifts is deemed a voluntary resignation.

10.14 VACATION

Each department shall establish a vacation schedule to meet the needs of the department while allowing an employee to use accrued vacation. Requests for vacation shall be made in advance, with the length of the notice to be determined by the department.

Vacation leave may be used as it is earned subject to approval by the employee's supervisor and/or Director, unless addressed separately in a CBA.

- A. Vacation leave must be used in one (1) hour increments.
- B. Vacation may be accrued to a maximum of 240 hours. An employee may exceed this cap throughout the year. If an employee is over the cap, the balance will be reduced to 240 hours on the pay period that includes April 1 of each year.
- C. For an employee on a leave of absence, vacation earned is pro-rated based on the number of paid hours during a payroll period.
- D. Vacation for a regular, full-time employee is earned according to the following schedule:

<u>Continuous Years of Service</u>	<u>Days Per Year</u>
0 – 5 Years	10
6 – 10 Years	15
Over 10 Years	+1 day per year, not to exceed 20 days

- E. Vacation for a regular, part-time employee who works twenty (20) hours or more per week on a regular basis will earn vacation on a prorated basis of the full-time employee schedule. A part-time employee who works fewer than twenty (20) hours per week on a regular basis will not earn or accrue vacation leave.

Please refer to Section 7.08 for the City's Leave Donation Policy.

Approved: 2019 Council Meeting

10.15 VOTING TIME

Per Minnesota Statutes 204C.04, every employee who is eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of the election, without penalty or deduction from salary or wages because of the absence.

Election means a regularly scheduled state primary or general election, an election to fill a vacancy in the office of United States senator or United States representative, or an election to fill a vacancy in the office of state senator or state representative.

All employees are encouraged to exercise their right to vote and must arrange their schedule with their supervisor.

10.16 VOLUNTARY LEAVE WITHOUT PAY

The Voluntary Leave Without Pay program reduces staffing costs and provides an alternative leave option for employees. All full-time and part-time employees are eligible.

Participation in the Voluntary Leave Without Pay Program is subject to approval by the Director. Requests will be reviewed on a case-by-case basis, considering normal vacations and other operational needs within the department.

Program Guidelines:

- Voluntary leave without pay can be taken either as a specified “block of time,” or on a scheduled or flexible short work week plan.
- When two or more employees holding similar positions request voluntary leave without pay, the needs of the department will prevail.
- An employee interested in voluntarily reducing work hours should submit a written request to his/her immediate supervisor on the proper form. The signed agreement will also include information on other benefits that might be affected. For approved requests, the supervisor and/or Director will discuss and confirm in writing to the employee, the specifics of how the voluntary leave without pay will be applied.
- The City Manager may rescind or modify a voluntary leave without pay agreement without notice.
- Voluntary leave without pay must be taken in increments of eight (8) hours for an exempt employee and in increments of one (1) hour for a non-exempt employee.
- Maximum amount of leave is 480 hours (12 weeks).
- The leave must result in a cost savings to the City of Brooklyn Park.
- Holidays that fall within the voluntary leave without pay timeframe will not be paid.
- There will be no loss of any benefit including health, dental or life insurance, or any loss of seniority or benefit accruals for any voluntary leave without pay taken while this policy is in effect.
- If leave without pay coincides with any eligible leave under FMLA, the leaves will run concurrently. See Section 10.04 *Family and Medical Leave Policy* for details.
- An employee should note “voluntary leave without pay” on their payroll timesheet.

The request form along with additional program information is available on the employee intranet or by contacting Human Resources.

**Adopted by City Council Resolution
Resolution #2003-159
June 2, 2003**



SECTION 11 TERMINATION OF EMPLOYMENT

Employment with the City may be terminated through dismissal, lay-off, job elimination, permanent disability causing disqualification, voluntary resignation, retirement or death. Any applicable CBA governs for employees in the appropriate group unless no contract terms exists addressing the particular issue. In that case, the provisions of this section apply.

11.01 ABSENT WITHOUT LEAVE

Any employee absent without pre-authorized or excused leave shall be without pay for such absence and will be subject to disciplinary action. An employee absent without leave for three (3) consecutive work shifts without notifying his/her supervisor shall be deemed to have voluntarily resigned from their position.

11.02 EXIT INTERVIEW

Human Resources may conduct an exit interview with a terminating employee to better understand the reason for leaving and for any other impressions the employee may wish to share about the organization.

A benefit-eligible employee will also receive information about the continuation of certain benefits under COBRA.

11.03 LAYOFF OR JOB ELIMINATION

Any regular full- or part-time employee leaving employment through involuntary termination due to lay-off or job elimination shall be paid severance in the amount of 50% of accrued sick leave up to a maximum of 120 days.

11.04 REINSTATEMENT AND REHIRE

An employee who has resigned and is later rehired or reappointed shall be considered a new employee with no accrued rights, privileges or benefits.

- A. It is the discretion of the City Manager to rehire an employee to a position when in the best interest of the City.
- B. Reinstatement of an employee who has been on military leave is regulated by Minnesota Statutes.

11.05 RESIGNATION, VOLUNTARY

An employee, not including Directors, who wishes to leave City service in good standing, shall file a written resignation stating the effective date of the resignation and the reason for leaving with the Director at least fourteen (14) days before leaving.

A Director who wishes to leave City service in good standing shall file a written resignation stating the effective date of the resignation and the reason for leaving with the City Manager at least thirty (30) days before leaving.

11.06 RETIREMENT

An employee who wishes to retire from the City of Brooklyn Park should schedule an appointment with Human Resources.

11.07 RETURN OF CITY PROPERTY

An employee leaving employment is required to return all City-issued and owned property and equipment prior to their last day of employment including, but not limited to, keys, pagers, cell phones, laptop computers/tablets, ID badges, uniforms and credit cards. Failure to do so may lead to deductions from the employee's final paycheck to cover the replacement of such items to the extent allowed by law. An employee may be asked to sign a form indicating they have returned all property.

11.08 SEVERANCE BENEFITS

Severance pay in the amount of 50% of accumulated sick leave, not to exceed a maximum of forty-five (45) days, shall be paid to a regular full- or part-time employee leaving employment in good standing after one (1) year.

Accrued sick and vacation hours will be retained when accepting or being promoted to a new position in the City. If the one (1) year probationary period in the new position is not successfully completed and the employee leaves the employment of the City, the following severance payout will apply:

- 1) When an employee terminates during the first six (6) months of a probationary period, the employee will receive 50% of accumulated sick leave, not to exceed 45 days, earned prior to the start date of the new position.
- 2) When an employee terminates after the six (6) month point of a probationary period, the employee will receive 50% of accumulated sick leave earned to the date of termination, not to exceed 45 days.
- 3) When an employee with more than one year of employment service voluntarily terminates during a secondary probationary period, the employee must provide a proper resignation as outlined in 11.05 to receive a severance benefit.

11.09 UNEMPLOYMENT COMPENSATION

Upon termination, an employee may be eligible for unemployment compensation depending upon earnings during the past year, the nature of the work and the circumstances of the termination. Contact the office of the Department of Economic Security for more information.

11.10 VACATION PAYOUT

When a regular full- or part-time employee leaves employment after six (6) months of service, accumulated vacation leave will be paid in full up to 240 hours with required deductions. Temporary or seasonal service does not count toward vacation accrual or payout benefits.

Approved: 2019 Council Meeting



SECTION 12 EMPLOYEE SERVICES AND ORGANIZATIONS

12.01 BULLETIN BOARDS

General information, job postings, special events, and notices are posted on designated bulletin boards in each facility as one way of keeping employees informed about City activities. Employees should check with their supervisor if they would like to post a notice on the bulletin board in their facility. A notice must include a posting date and must be removed from the bulletin board within thirty (30) days. Additionally, each division may designate its own bulletin board for sharing departmental information.

12.02 EMPLOYEE EVENTS

The employee-related activities, events, and organizations listed below are on-going programs provided by the City and are designed to demonstrate appreciation, express recognition, acknowledge, motivate, and provide for social interaction. The programs shall operate within allocated resources and will serve a goal of providing a positive working environment for employees of the City.

By law, employee events and purchases must serve a public purpose and be approved by the City Council. The specific City policies authorizing recognition events and purchases may be found in the Public Purpose Expenditure Policy on the employee intranet.

Annual Employee Picnic

An employee picnic may be scheduled annually.

Annual Clean-Up Day Breakfast

This event may be scheduled annually. The event kicks off with a breakfast prepared by Directors, managers and supervisors. The meal is prepared and served to employees at the Community Activity Center.

Employees then return to their work area for a full day of spring cleaning. By City Manager decree, employees may wear blue jeans to work and no meetings or outside activities should be scheduled on Clean-up Day.

Annual Employee Recognition Celebration

This event may be scheduled annually to recognize employee service and longevity. The celebration typically consists of a themed recognition program and catered luncheon.

The recognition year will run from July 1 of the preceding year to June 30 of the current year. To qualify for recognition, an employee must have completed a five-year interval anniversary on or before June 30 and be an active employee in a benefited, regular full- or part-time position or firefighter. An employee shall receive \$10 for each completed consecutive year of service at the levels of 5, 10, 15, 20, 25, 30, 35, etc., years.

Brooklyn Park Sunshine Club

The Brooklyn Park Sunshine Club program was created for the purpose of acknowledging events in the personal lives of employees. Recognized events include an employee's marriage, the birth/adoption of a child by an employee, a death of an employee's immediate family or household member, or an employee's hospitalization or extended illness. The funding of the Sunshine Club is raised by voluntary employee contributions through payroll deductions.

12.03 EMPLOYEE INTRANET

The City of Brooklyn Park provides an Employee Intranet, which is one of the primary communication tools (along with the *FULL MOON* Employee Newsletter) for all employees to receive information concerning notices, events, fliers, personnel contacts, organization policies, forms, committees, and various other resourceful information.

12.04 EMPLOYEE NEWSLETTER

The *FULL MOON* is distributed electronically to all employees on a monthly basis. The newsletter serves as a line of communication to inform employees of the many activities of various departments, employees, and the City as a whole. Newsletter articles are welcomed and encouraged and should be submitted to the Communications division.

12.05 LABOR UNIONS

Unions currently represent certain groups of City employees. These unions are:

- Brooklyn Park Police Federation – Police Patrol employees
- Minnesota Teamsters Local #320 – Police non-licensed, non-sworn employees
- Minnesota Teamsters Local #320 – Police Department supervisors
- International Union of Operating Engineers (IOUE), Local #49 – Operations and Maintenance employees

State law provides that employees are not required to join a union upon employment, although they may be required to pay a *fair share fee* for services rendered by the exclusive representative.

By law, the fair share fee is 85% of union membership dues. The exclusive representative may require the City to deduct a fair share fee from an employee's wages who is not a member of the union.

Each labor organization has one or more union stewards selected by members of the bargaining unit to represent employees in the union. If you are a member of a unit represented by a union and you have questions regarding the union, please contact a union steward.

12.06 PRIVACY ROOM

The City provides privacy rooms to be used by nursing mothers in City facilities. This space may or may not be dedicated to the sole purpose of a nursing mother's use, but priority will always be given to a nursing mother and must be available when needed to meet the statutory requirement under the Fair Labor Standards Act. Contact Human Resources for the location of privacy rooms.



Brooklyn Park

Elected Officials

Rules of Procedures and Code of Conduct

June 2002

Revised and Approved October 23, 2017

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**CITY OF BROOKLYN PARK
ELECTED OFFICIALS
RULES OF PROCEDURES AND CODE OF CONDUCT**

(Adopted at City Council Meeting of June 10, 2002)

Revised and Approved by City Council on October 23, 2017

Preamble:

The Brooklyn Park community is entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of democratic government requires that:

- *Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;*
- *Public officials be independent, impartial and fair in their judgment and actions;*
- *Public office be used for the public good, not for personal gain; and*
- *Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.*

It is essential to the proper administration and operation of the City of Brooklyn Park that the City Council be independent and impartial, that elective office with the City of Brooklyn Park not be used for personal benefit, and that the public have confidence in the integrity of the City. In recognition of these goals, the City has adopted this Code of Conduct and Rules of Procedures, which is applicable to all members of the City Council, including when acting in the capacity of EDA Commission Members.

The purpose of this Code is to establish standards of ethical conduct applicable to the City Council Members, including the Mayor, in the discharge of their duties. It prescribes essential restrictions against conflict of interest and other conduct not consistent with good practices while not creating unnecessary barriers to public service.

It is required that all Council Members comply with the law and all other applicable rules and regulations governing the conduct of public officials. The standards in this Code shall not preclude other standards required by law.

The Council's Statement of Values:

- *Honesty and Integrity:* Honesty and integrity are the cornerstones for building trust, mutual respect and teamwork. Honesty and integrity include maintaining the highest ethical standards, communicating with complete candor and openness, listening and really hearing each other, and a willingness to change our position on an issue if the facts warrant.
- *Respect:* Each person is an individual. Despite differences we may have on issues, we will strive to demonstrate respect and a caring attitude toward each other.
- *Teamwork:* We believe that teamwork is important to our success as an organization. Teamwork requires participation by all to reach consensus on issues, whenever possible. We will work together to achieve win/win solutions that serve the entire community.
- *Information:* We value information that is correct, complete and timely. This is essential for making decisions that are sound and wise. The Council expects staff to be diligent in assuring that its information needs are reasonably met.
- *It's Okay to Disagree:* While we will strive to reach consensus on issues, we also recognize that we operate in a political environment. At times, our disagreements will only be resolved by voting. To disagree on an issue does not imply dislike for the individual. We believe in being tough on issues, but not on people. Once an issue is resolved, we will move on without grudges or malice.
- *Best for the City:* Ultimately, the interest of each Council and staff member is to do what is best for the City of Brooklyn Park and to uphold the City Charter. This includes assuring open accessible government, fiscal responsibility, a spirit of professionalism, excellence in service, and visionary community leadership. We each take pride in our community.
- *Trust:* The Council and staff of the City of Brooklyn Park are committed to working together within the context of these values. To assure they become a real force in guiding our behavior, we will prominently display them and regularly remind ourselves and each other of their existence. We believe this will be a powerful factor in building the bonds of trust among us.

1. OVERVIEW OF ROLES AND RESPONSIBILITIES

Other resources that are helpful in defining the roles and responsibilities of elected officials can be found in state law, Brooklyn Park City Charter, and City Code.

1.1 Mayor

- Elected “at-large” for a 4-year term
- Recognized as head of the City Government for all ceremonial purposes
- Presides over meetings of the City Council
- Has the same speaking and voting rights as any other member
- Executes and authenticates legal instruments requiring signature
- Strives to lead the Council into an effective, cohesive working team

1.2 Mayor Pro Tem

- Appointed by the City Council at the first meeting of the year
- Performs the duties of the Mayor if the Mayor is absent, disabled, or otherwise unable to participate in a matter or is the subject of a complaint under this code

1.3 All Council Members

All members of the City Council, including the Mayor and Mayor Pro Tem, have equal votes. No Council Member has more power than any other Council Member, and all should be treated with equal respect.

1.4 The Mayor and All Council Members

- Refer to one another formally during public meetings as “Mayor (last name)”/ “Council Member (last name)”
- Wait to speak until acknowledged by the Mayor
- Honor efforts by the Mayor to efficiently manage the meeting and to focus discussion on current agenda items
- Treat all staff as professionals
- Treat members of the public politely and respectfully
- When a conflict of interest arises, the Council member shall abstain from the vote and be available for comment from the podium only
- Council Members are encouraged to give support for the majority position once votes have been taken
- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others
- Prepare in advance of meetings, including contacting staff with any questions in order to be familiar with issues on the agenda
- Represent the City at ceremonial functions
- Be respectful of people’s time; stay focused and act efficiently during public meetings
- Serve as a model of leadership and civility to the community
- Inspire public confidence in Brooklyn Park government
- Demonstrate honesty and integrity in every action and statement
- Participate in scheduled activities

2. RULES OF PROCEDURES

- 2.1 **Regular Meetings:** Shall be held at 7:00 p.m. on the first, second and fourth Mondays of each month in the Council Chambers of City Hall, 5200 85th Ave. N., Brooklyn Park, Minnesota. No meeting shall be held on a legal holiday, but shall be held at the same hour on the next succeeding day that is not a holiday.

Open Forum will begin at 7:00 p.m. at all regular meetings with the exception of the work sessions. Members of the public should be advised of the guidelines of the Open Forum. The Open Forum will provide members of the public an opportunity to comment, ask questions or present a problem relating to city business that is not already a part of the agenda. Each speaker will be asked to limit his/her comments to three (3) minutes and can only address the Council one time during the Open Forum. No action will be taken. Staff will follow up with a response regarding the status of the concern. Open Forum will be held no longer than 15 minutes. If no one is in attendance for the Open Forum or if 15 minutes is not needed for this purpose, the regular meeting shall begin immediately or after Open Forum business has been conducted.

- 2.2 **Special Meetings:** The Mayor or any three (3) members of the Council may call Special meetings. Three days written notice is required. Notice shall include specific purpose of the meeting in addition to the time, date and location of meeting.
- 2.3 **Emergency Meetings:** Emergency meetings may be called by the Mayor or any three (3) members of the Council due to circumstances that, in the judgment of the public body, require immediate consideration. At least four (4) hours' notice (either in writing or by telephone) is required.
- 2.4 **Executive Sessions:** Executive Sessions are closed meetings and may be called only for those reasons specified in state law. State Statute requires that the Council pass a motion at a public meeting announcing their intention to go into a closed meeting, the subject matter to be discussed and the time and place of the executive session. Executive sessions will be taped when required by State law. When the executive session is complete, the Council shall return to the public meeting and summarize the action taken at the executive session. Council Members are to maintain confidentiality relating to any non-public discussion items.
- 2.5 **Cancellation of Meetings:** Meetings may be cancelled by the Mayor or, in the Mayor's absence, by the Mayor Pro Tem due to insufficient agenda items, lack of a quorum, inclement weather and/or other similar reasons. Council Members

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CODE OF CONDUCT

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must be notified in writing or by telephone at least four (4) hours in advance whenever possible.

- 2.6 **Meeting Minutes:** Minutes of all meetings (except Executive Sessions) shall be kept by the City Clerk and shall represent an official record of the Council proceedings. Minutes shall be submitted to the Council for approval and to the Mayor for signature. Lack of such approval or signature shall not invalidate the minutes as official records.
- 2.7 **Cablecast/Webcast Meetings:** To the extent possible, all regular meetings and special Council meetings shall be cablecast/webcast. Video will be retained by the City Clerk for one year and be available to the public for viewing.
- 2.8 **Audio-taped Meetings:** Executive Sessions dealing with labor negotiation discussions will be audio taped; those tapes will be retained for two years after the contracts are signed.
- 2.9 **Meeting Attendance:** Council Members are expected to attend all meetings. However, when unable to attend a meeting, Council Members should notify either the Mayor or the City Clerk. The Mayor shall announce the Council Member's absence.
- 2.10 **Break:** The Council may recess to a ten-minute break at 9 p.m.
- 2.11 **Adjournment:** Unless otherwise agreed to by at least a majority of the Council, all meetings of the Council shall be adjourned by 10:00 p.m. The Mayor should manage the meeting to conform to the adjournment time.

3. AGENDAS

The Agenda shall be prepared by the City Clerk and City Manager and shall contain the order of business of each meeting. It shall be delivered to Council Members each Thursday preceding the Monday meeting to which it pertains. Agenda items will be scheduled to meet the differing needs of those in attendance. The agenda and all supporting public material shall also be made available to the general public by noon on the Friday preceding a Council meeting and at the Council Meetings.

- 3.1 **Deadline for Agenda Items:** Generally, items to be considered should be submitted to the City Manager's office by noon on the Wednesday preceding the meeting. The City Manager may choose not to schedule items for a particular meeting when, in his/her opinion, other business to be considered at that meeting will likely consume the available time. Any two Council Members may request that the city manager place an item on an upcoming meeting agenda.

- 3.2 **Approval of Agenda:** The Mayor, Council Members or staff may propose additions, deletions or changes to the agenda. A majority vote of the Council is required to approve the agenda as proposed/amended. Any changes after the agenda has been formally approved shall require a two-thirds (2/3) vote of the Council.
- 3.3 **Consent Agenda:** Routine and non-controversial items shall be placed on the Consent Agenda which will be approved by one blanket motion. Any Council Member may request that items be withdrawn for separate consideration. If a Council Member has a question on a Consent Agenda item, they are to ask staff ahead of time, rather than having it pulled off for discussion during the meeting.

4. PUBLIC INPUT

Council Members recognize that public input is an essential component in the decision making process. Members further acknowledge the necessity of ensuring that persons who wish to speak be afforded an orderly opportunity to do so. Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council Members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- 4.1 **Restrictions:** Questions and comments from the public during a council meeting shall be limited to the subject under consideration. Depending on the length of the agenda and the number of persons wanting to participate, the Mayor may limit the time available for public comment and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. No persons shall enter into any discussion without being recognized by the Mayor. After a motion has been made or after a public hearing has been closed, no person shall address the Council without first securing permission from the Mayor.
- 4.2 **Public Hearings:** After a presentation by staff, the applicant shall have the right to speak first. Speakers representing either pro or con points of view will be allowed to follow. The Mayor will determine how much time will be allowed for each speaker (generally 3 to 5 minutes) and ask speakers to line up to speak. Council Members will not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. Council Members should refrain from arguing or debating with the public and should always show respect for different points of view. The Mayor has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly. The Mayor or Council shall notify the speaker when the allotted time has expired to accommodate others wishing to speak.

- 4.3 **Addressing the Council:** Any member of the public desiring to address the Council shall complete an Addressing the Council Form and present it to the Clerk. The Mayor will call on the individual when that agenda item is discussed.

5. COUNCIL PROCEDURES/PROTOCOL

Councils are composed of individuals with a wide variety of backgrounds, personalities, values opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as the Council may “agree to disagree” on contentious issues. It is expected that there will be support for the majority position once votes have been taken. Roberts Rules of Order will be followed. The City Attorney will act as Parliamentarian.

- 5.1 **Motions:** Motions are a formal method of bringing business before the Council and for stating propositions on which the Council will move to make a decision. All motions require a second and a motion shall not be withdrawn by a mover without the consent of the person seconding it. No debate/discussion shall take place without a motion being placed on the floor.
- 5.2 **Voting Procedures:** Unless abstaining, every Council member shall vote. Failure to vote shall be recorded as a yes vote except in situations where a roll call vote has been requested. Tie votes shall be lost motions when all Council Members are present. If a tie vote results at a time when less than all members of the Council are present, the matter shall automatically be continued to the agenda of the next regular meeting unless otherwise ordered by the Council.

6. CODE OF CONDUCT AND ETHICS

6.1 Council Conduct with One Another

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as Council may "agree to disagree" on contentious issues.

6.1.1 In Public Meetings

- A. **Practice civility, professionalism and decorum in discussions and debate.** Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not, however, allow Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical

actions that could be construed as threatening will be tolerated. Council Members should conduct themselves in a professional manner at all times, including listening actively during Council meetings.

- B. **Honor the role of the Mayor or Mayor Pro Tem in maintaining order.** It is the responsibility of the Mayor to keep the comments of Council Members on track during public meetings. Council Members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- C. **Avoid comments that personally attack other Council Members.** If a Council Member is personally attacked by the comments of another Council Member, the offended Council Member should make notes of the actual words used and may call for a "point of order" to challenge the other Council Member to justify or apologize for the language used. The Mayor will maintain control of this discussion.
- D. **Demonstrate effective problem-solving approaches.** Council Members have a responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- E. **Be punctual and keep comments relative to topics discussed.** Council Members have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Council Members be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discuss scheduled issues.
- F. **Endorsement of Candidates.** Council Members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention endorsements during Council meetings or other official City meetings or functions.
- G. **Council Decisions.** Once a majority decision of the governing body has been made, respect that official position and defend it if needed, even if you personally disagreed.

6.1.2 In Private Encounters

- A. **Continue respectful behavior in private.** The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
- B. **Be aware of the insecurity of written notes, voicemail messages, social media and email.** Technology allows words written or said without much forethought to be distributed wide and far. How would you feel if this voicemail message was played

on a speaker phone in a full office? What would happen if this email message was forwarded to others? Written notes, social media postings, voicemail messages and email should be treated as potentially "public" communication.

- C. **Even private conversations can have a public presence.** Elected officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.
- D. **Make no personal comments about other Council Members.** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council Members, their opinions and actions.

6.2 Council Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy and City staff, who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- A. **Treat all staff as professionals.** Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments toward staff is not acceptable.
- B. **Limit contact to specific City staff.** Questions of City staff and/or requests for additional background information should be directed to the City Manager, City Attorney, or Department Heads, unless otherwise directed by the City Manager. The City Manager should be copied on or informed of any request.
- C. **Council direction to staff.** In accordance with Charter Section 2.10, individual Council Members cannot give direction to city staff either publicly or privately. The Council as a body may provide staff direction on matters that come before the Council.

Requests for follow-up or directions to staff should be made only through the City Manager or the City Attorney when appropriate. When in doubt about what staff contact is appropriate, Council Members should ask the City Manager for direction. Materials supplied to a Council Member in response to a request for information of interest to all Council Members will be made available to the entire Council so that all have equal access to the information.

- D. **Do not disrupt City staff from their jobs.** Except in extraordinary circumstances,

Council Members should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions.

- E. **Never publicly criticize an individual employee.** Council should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation.
- F. **Do not get involved in administrative functions.** Council Members must not attempt to influence City staff on the making of employment or personnel decisions, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- G. **Do not attend City staff meetings without permission from staff.** Even if the Council Member does not say anything, the Council Member's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.
- H. **Limit requests for staff support.** Requests for additional staff support – even in high priority or emergency situations – should be made to the City Manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.
- I. **Do not solicit political support from staff.** Council Members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff.
- J. **Council, EDA and Commission agendas.** Staff's responsibility is to provide Council Members the information needed for informed decision-making. Every effort should be made to ask staff questions regarding Council, EDA and commission agendas before the meeting.
- K. **Don't speak ill of other Council Members to staff.** Staff has the responsibility to treat all Council Members equally. It puts staff in a compromising position when one Council Member criticizes other Council Members to staff.
- L. **Don't spring surprises on Council Members or City staff, especially at formal meetings.**

6.3 Council Conduct With The Public

6.3.1 In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of

partiality, prejudice or disrespect should be evident on the part of individual Council Members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- A. **Be fair and equitable in allocating public hearing time to individual speakers.** The Mayor will determine and announce limits on speakers at the start of the public hearing process and ensuring those with Brooklyn Park addresses have an opportunity to speak. Generally, each speaker will be allocated three minutes with applicants or their designated representatives may be allowed more time. If many speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the Council requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless agreed upon by the Council.

- B. **Ask for clarification, but avoid debate and argument with the public.** Only the Mayor – not individual Council Members – can interrupt a speaker during a presentation. However, a Council Member can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the Council Member finds disturbing.

If speakers become flustered or defensive by Council questions, it is the responsibility of the Mayor to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Council Members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Council Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- C. **No personal attacks of any kind, under any circumstance.** Council Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.
- D. **Follow parliamentary procedure in conducting public meetings.** The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor, subject to the appeal of the full Council.

6.3.2 In Unofficial Settings

- A. **Make no promises on behalf of the Council.** Council Members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise City staff will do something specific (fix a pothole, plow a specific street, plant new flowers in the median, etc.).
- B. **Make no personal comments about other Council Members.** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council Members, their opinions and actions.
- C. **Council Members are constantly being observed by the community every day that they serve in office.** Their behaviors and comments serve as models for proper conduct in the City of Brooklyn Park. Honesty and respect for the dignity of each individual should be reflected in every word, communication, (whether in social media or otherwise), and action taken by Council Members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

6.4 Council Conduct with the Media

Council Members may be contacted by the media for background and quotes.

- A. **The Mayor is the official spokesperson for the representative on City position.** The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Council Member is contacted by the media, the Council Member should be clear about whether their comments represent the official City position or a personal viewpoint.
- B. **Choose words carefully and cautiously.** Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.
- C. **The best advice for dealing with the media is to never go "off the record."**
- D. **Inform the City Manager or Communications Coordinator.** If contacted by the media, the City Manager or Communications Coordinator should be informed. When possible the City Manager or Communications Coordinator should be consulted before communicating to the media.

6.5 Council Conduct with Other Public Agencies

Be clear about representing the City or personal interests. If a Council Member appears before another governmental agency or organization to give a statement on an issue, the

Council Member must clearly state:

- 1) If his or her statement reflects personal opinion or is the official stance of the City;
- 2) Whether this is the majority or minority opinion of the Council. Even if the Council Member is representing his or her own personal opinions, remember that this still may reflect upon the City as an organization.

If the Council Member is representing the City, the Council Member must support and advocate the official City position on an issue, not a personal viewpoint.

6.6 Council Conduct with Boards and Commissions

The City has established several Boards and Commissions as a means of gathering more community input. Residents who serve on Boards and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- A. **If attending a Board or Commission meeting in the role as liaison.** "Liaison" means non-voting member of a commission who shall speak on behalf of the Council (or staff) as a whole, not as an individual, thus providing a communication link between the commission and Council (or staff).
- B. **Limit contact with Board and Commission Members.** It is inappropriate for a Council Member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. Council Members may contact members of the Commission and staff liaison in order to clarify a position taken by the Board or Commission.
- C. **Remember that Boards and Commissions serve the community, not individual Council Members.** The City Council appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the Council. But, Board and Commission members do not report to individual Council Members, nor should Council Members feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue.
- D. **Be respectful of diverse opinions.** A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Council Members must be fair and respectful of all residents serving on Boards and Commissions.

7. CODE OF ETHICS

7.1 Open Meeting Law

4.9A CITY OF BROOKLYN PARK ELECTED OFFICIALS RULES OF PROCEDURES AND
CODE OF CONDUCT

Page 14

- A. State law requires that, with certain exceptions, meetings of the City Council be open to the public. A meeting is a gathering of a majority of City Council Members at which City business is discussed. It is not necessary that action be taken for a gathering to constitute a “meeting.”
- B. A meeting does not include chance, social gatherings as long as public business is not discussed.
- C. A majority of Council Members should not communicate with each other by phone, email, in-person, or otherwise, to discuss City business.
- D. Use of social media does not violate the open meeting law as long as the social media use is accessible to all Members of the public.

See Minnesota Statutes, Chapter 13D for further information regarding the Open Meeting Law.

7.2 Gift Law

A City Council Member cannot accept a gift from someone who has an interest in any matter involving the City. A “gift” includes money, property, a services, a loan, forgiveness of a loan, or a promise of future employment. A “gift” does not include:

- A. campaign contributions;
- B. items costing less than \$5;
- C. items given to members of a group, the majority of whose members are not local officials;
- D. gifts given by family members; or
- E. food or beverages given at a reception, meal or meeting at which a Council Member is making a speech or answering questions as part of a program

See Minnesota Statutes, Section 471.895 and City Charter, Section 14.04(A) for further information regarding the Gift Law.

7.3 Conflict of interest

- A. City Council Members cannot have a personal financial interest in a sale, lease, or contract with the City.
- B. City Council Members cannot participate in matters in which the Council Member’s own

personal interest, financial or otherwise, is so distinct from the public interest that the Council Member cannot be expected to fairly represent the public's interest when voting on the matter.

See Minnesota Statutes, Sections 471.87-.88 and City Charter, Section 14.04(A) for further information regarding conflicts of interest.

8. ACCOUNTABILITY/CONSEQUENCES

8.1 A potential action for failing to comply with this code of conduct may include the following:

1. **Admonition.** An admonition shall be verbal non-public statement made by the Mayor to the Council Member.

2. **Reprimand.** A reprimand shall be administered to the Council Member by letter. The letter shall be approved by the City Council and shall be signed by the Mayor.

3. **Censure.** A censure shall be administered pursuant to a formal resolution adopted by the Council.

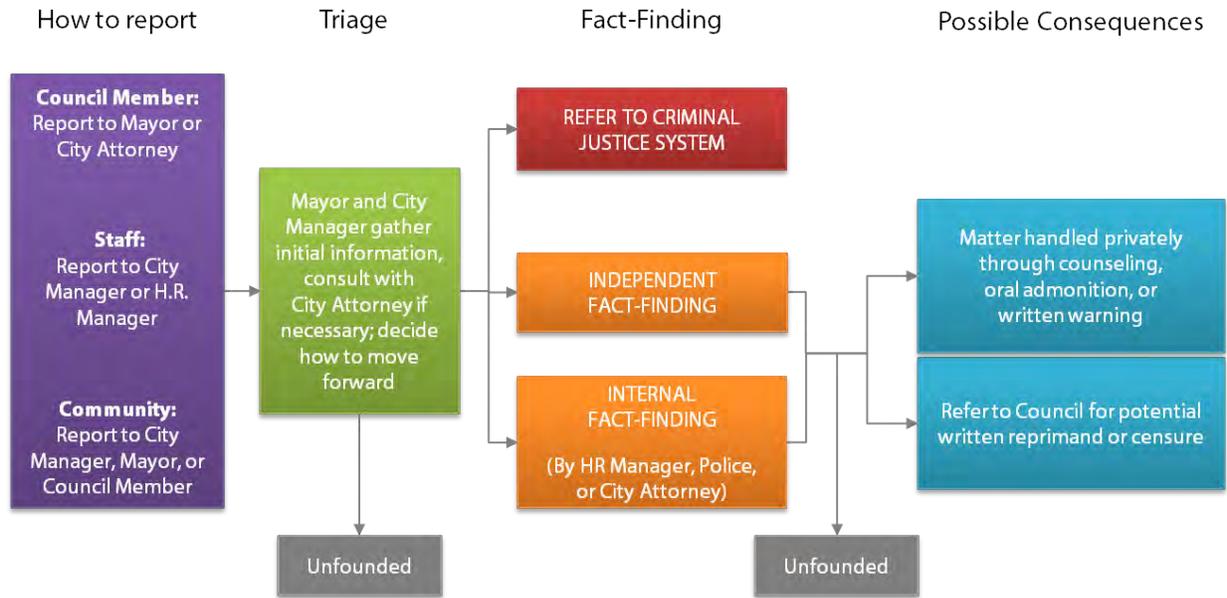
8.2 Council Members' Behavior and Conduct

- A. City Council Members who violate the code of this conduct are subject to admonition, reprimand, or censure. Any violations that potentially constitute criminal conduct shall be handled by the criminal justice system.
- B. Factors that will be considered in determining the appropriate consequence include but are not limited to the following: seriousness of the violation and number of preceding violations.
- C. Procedures for reporting:
 - 1. A member of the Brooklyn Park City Council may report a potential code of conduct violation by a member of the City Council by bringing the matter to the attention of the Mayor, City Manager, or City Attorney.
 - 2. A Brooklyn Park staff member may report a potential code of conduct violation by a member of the City Council by bringing the matter to the attention of the City Manager or Human Resources Manager.
 - 3. If the potential violation involves the Mayor, it should be brought to the attention of the Mayor Pro Tem or City Attorney.
 - 4. A community member may report potential code of conduct violations by a member of the City Council to the Mayor, City Manager or any member of the

City Council.

D. Upon receipt of a complaint, the following diagram highlights the process that will be used:

Reporting and Addressing Possible Code of Conduct Violations



E. For inappropriate statements or conduct by Council Members occurring during a Council meeting, a verbal correction by the Mayor will normally be the first step to address the matter either during or outside of the Council meeting. Further incidents may be addressed by subsequent verbal corrections accompanied by use of the gavel. Repeated incidents can give rise to the Mayor not recognizing the offending Council Member to speak. A Council Member can request that the Mayor take any of these actions against an offending Council Member if the Mayor has not done so on his/her own.

Postlude

It all comes down to respect.

- Respect for one another as individuals.
- Respect for the validity of different opinions.
- Respect for the democratic process.
- Respect for the community that we serve.

9. GLOSSARY OF TERMS

9.1 Glossary

Admonition	An act or action of admonishing; authoritative counsel or warning
Attitude	The manner in which one shows one's dispositions, opinions, and feelings
Behavior	External appearance or action; manner of behaving; carriage of oneself civility Politeness, consideration, courtesy
Censure	Express severe disapproval of (someone or something), typically in a formal statement
Civility	Formal politeness and courtesy in behavior and speech
Conduct	The way one acts; personal behavior
Courtesy	Politeness connected with kindness
Decorum	Suitable; proper; good taste in behavior
Manners	A way of acting; a style, method, or form; the way in which things are done
Point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
Point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow Council member considers offensive
Propriety	Conforming to acceptable standards of behavior
Protocol	The courtesies that are established as proper and correct
Reprimand	Express sharp disapproval or criticism of (someone) because of their behavior or actions.
Respect	The act of conducting ones behavior in a courteous manner.



Brooklyn Park 

Brooklyn Park City Council Orientation

Essentials to Getting Started

January 4, 2021
4:00 to 6:30 p.m.

Welcome from City Manager Stroebel



Orientation Overview

- I. *Essentials to Getting Started* (tonight)
- II. Departments' presentations (next Monday)
- III. Introduction to your role as an EDA Commissioner (Tuesday, January 19)
- IV. "Meet Your Council Members" community engagement gathering (likely February 25)
- V. League of MN Cities conferences (optional)
- VI. Staff leadership and Council retreat (early March)

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Note handbook section we are on...

Orientation Goals

- Prepare elected officials for legislative, EDA and commission liaison responsibilities
- Establish clear understanding on conduct, and clarity on staff and elected official roles
- Educate City Council on department operations, emerging priorities and issues
- Develop intra-Council and Staff/Council relationships
- Staff and Council alignment on priorities

Agenda

- I. ONE TEAM working for the community
- II. Laws governing elected officials
- III. Respectful Workplace
- IV. City Hall security
- V. COVID-19
- VI. Critical incident communications and Communications 101
- VII. Council and constituent concerns and questions
- VIII. Administrative support
- IX. Council Actions 101
- X. Liaison responsibilities
- XI. Personal technology, remote meetings and payroll
- XII. Other materials
- XIII. Next steps of orientation

I. Council and Staff Working as ONE TEAM!



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-As we kick off 2021, we have much work to do and with the unique situation we are in without a permanent Mayor until August, even greater burden for the Council to work well together and continuing to have a strong working relationship between Council and staff. We have lots of work to do, including advancement of park projects, Wilder work on evaluation of policing and drivers of crime, development opportunities (housing, business, etc.), supporting resident success, COVID response, CURA Renter study, advancing projects such as CITA, 252, BLRT, capital needs assessment for Fire dept., etc.

-Collectively, the City Council, volunteer commissions, and full-time and part-time staff comprise the Brooklyn Park City Government; above all we are charged to work as one team working toward the public interest, working for the 82,000 plus residents of Brooklyn Park

-We do this in our day-to-day work and in our long-term strategic efforts

Key Roles and Responsibilities

- Council – Manager form of government
- Council key roles and responsibilities
 - Adopt laws and policy, approve budget, oversee manager, adopt and support community vision, constituent relations
- Staff key roles and responsibilities
 - Carry out policy; manage operations, budget and personnel issues; inform and make recommendations on policy, organizational direction and budget, resident relations

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So how can we most effectively work together – let’s consider a quick reminder on roles

Council - Manager form of government; analagous to board of directors and CEO/staff in publicly held company; as City Manager, I am the conduit between the City Council and staff; to best coordinate our work and keep Council and staff fully informed, any communications happening between Council and staff, I should be copied on all of the communication, whether an email, text, etc. or be your first call for a question, one exception to this is reporting a possible code enforcement issue

Council key roles (policy making, governing board)

Adopt laws and policy, Approve budget, Oversee manager, Establish and support organizational direction

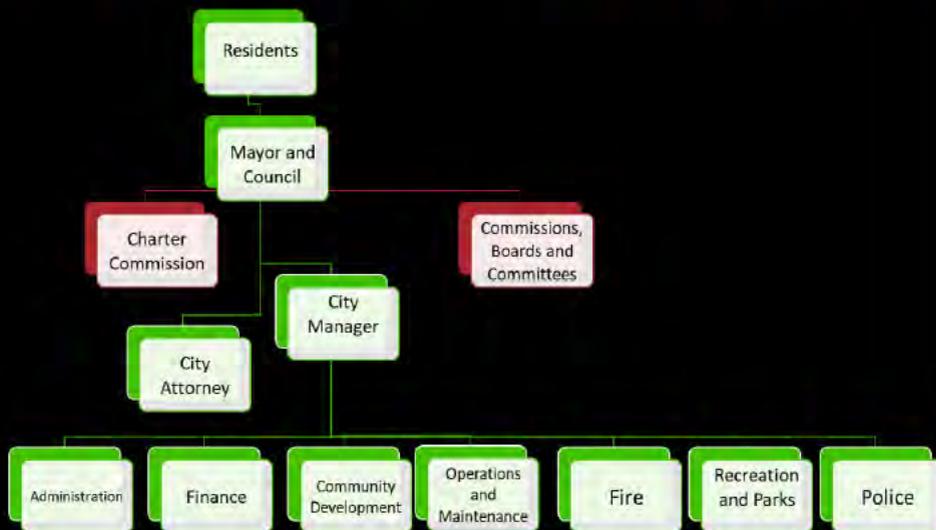
Staff key roles (administration)

Carry out operations and policy, manage budget and personnel issues, inform and make recommendations on policy, organizational direction and budget

MCMA Quote – ”

“ We don’t make the final decisions, but we (hopefully) make them better.”

Council – Manager Structure



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Organization chart

Council and Staff Working as One Team

- Worked hard in recent years to build a strong relationship and to professionally conduct our business
- Relationship is key, built on:
 - Mutual trust
 - Professionally conduct
 - Respect of roles
 - Clear communications with timely information
 - Working toward shared goals

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I was recently re-reading an article on Council / Manager form of government and it was emphasizing the critical importance of fostering that relationship between Council and staff.

Many elements go into building that relationship, but it starts with mutual trust. Other elements include:

Professionally conduct our business (note the Council Code of Conduct resolution established by joint group of residents, staff and Council)

Respect of roles (just provided high level summary, Council are the elected leaders of our residents, staff are the professionals in their respective fields)

Clear communications with timely information (for staff and council to be most effective in our roles, we need to ensure we are sharing clear and timely communication throughout the week as needed, but especially leading up to Council/EDA meetings. If you have questions about the agenda, please ask me ahead of time. My practice and Kim's as well for EDA meetings, is to call each of you on the Monday of a Council/EDA meetings to see if you have any questions. We want you to be informed in your decision-making. Council meeting is not intended to be an evening of surprises, meant to be well-informed decision making)

Working toward shared goals -In 2016, we spent roughly nine months engaging the community in developing the long-term aspirations for our community, This led to the Brooklyn Park 2025 community plan. I'll walk thru in a moment. Annually, we strive to have a joint retreat to discuss what our priorities should be for the upcoming 12 to 18 months. Did not happen in 2020 due to COVID.



Our city vision statement for Brooklyn Park is **Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.** This is our ultimate aspiration as defined by the community and adopted by the City Council.

Through extensive community engagement and adoption by the City Council, we have further defined that vision with our Brooklyn Park 2025 goals. BP 2025 is the community plan for our city and serves as the foundation for what we are trying to achieve as a community; see **wallet cards** for all the detailed language around the six goals. In March, staff leadership and council will have a retreat to discuss priorities around our BP 2025 goals for the next year or two. *Walk through the goals.*

If we (Council and Staff) are successful in our work, we make these goals a reality!

II. Laws Governing Elected Officials



Robert's Rules of Ordering.

Robert's Rules



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The purpose of Robert's Rules is to simplify, not to complicate, a meeting

To make a motion, you must first have the floor and then simply state: "I move that ... "

A motion must be seconded before debate can occur on it

City Charter requires at least 4 affirmative votes on all motions, resolutions, and ordinances

Open Meeting Law

- Prohibits action from being taken at a secret meeting
- Ensures the public's rights to be informed
- Allows the public an opportunity to present its views to the public body

Serial communication between members can also violate the Open Meeting Law!



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- a gathering of a majority of a commission at which official business is discussed even if no action is taken
- does not include chance, social gatherings as long as public business is not discussed
- e-mail is fundamentally no different from any other form of communication; care must be exercised, however, to be sure that a majority of a commission does not use e-mail to communicate with each other outside of a meeting. **(Helpful Hint: Do not use “reply to all” icon!!)**
- use of social media does not violate the open meeting law as long as the social media is accessible to the general public

CONFLICT OF INTEREST

Any member who has a financial interest in, or who may receive a financial benefit as a result of, any Council action

may not participate in matters in
personal financial interest

If you have a conflict of interest...

conflict or interest to the group
discussing or voting on the matter

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- Example of a Conflict – commissioner owns property that an applicant is proposing to lease for a use that requires a CUP
- Example of no Conflict – commissioner’s brother applies for a CUP
- If there is a significant appearance of impropriety, commissioner may choose to abstain

Gifts

Members may not receive gifts from any "interested person" in conjunction with their Council duties.



- An "interested person" is someone who has an interest in a matter that could come before the Council
- A "gift" includes money, property, a service, a loan, forgiveness of a loan, or a promise of future employment
- Exceptions
 - Campaign Contributions
 - Items costing less than \$5
 - Gifts given to members of a group, the majority of whose members are not local officials
 - Gifts given by family members

Data Practices Act

g City data on
ment data is public
ed officials and
be made public by
a complaint about
ivate



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- The Act governs all data maintained by a public entity. It includes data on personal cell phones, computers and other electronic devices.
- Unless otherwise specified, all government data is public
- Correspondence between elected officials and constituents is private data **but it can be made public by either the elected official or the constituent.** If a council member provides correspondence to city staff, the staff will treat the correspondence as public unless specifically directed by the council member to treat it as private data.
- The identity of someone who registers a complaint with the City concerning violations of state laws or local ordinances concerning the use of real property is private data

Quasi-Judicial Decisions

ns
urt than a legislative

press an opinion
o the city council
plicant or the public



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- Examples

- Some Land Use Decisions – primarily CUPs and Variances

- Some licensing decisions – primarily suspensions or revocations

- Council's role is more like that of a court rather than a legislative body

- Need for impartiality

- Be careful with contacts outside of council meetings with either side, but okay to listen and ask questions

- Do not express an opinion on the

outcome

until after

the public

hearing is

completed

III. Respectful Workplace Training

Title VII of the Civil Rights Act of 1964

Race

Color

Religion

National
Origin

Sex

Let's start out by identifying which laws protect against illegal harassment and discrimination.

The seventh amendment of the **Civil Rights Act of 1964**, also known as Title VII, outlines five major protected classes: **race, color, religion, sex and national origin**. Title VII prohibits employment discrimination based on these protected characteristics.

The U.S. **Equal Employment Opportunity Commission (EEOC)** is responsible for enforcing **federal laws** that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), and national origin.

Most employers with at least 15 employees are covered by EEOC laws.

The EEOC has the authority to investigate charges of discrimination against employers who are covered by the law and they also work to prevent discrimination before it occurs through outreach, education, and technical assistance programs.

Human Rights Act State of Minnesota

- Race (federal)
- Color(federal)
- Creed
- Religion (federal)
- National Origin (federal)
- Sex (federal)
- Marital Status
- Familial Status
- Disability
- Public Assistance Status
- Age
- Sexual Orientation/Gender Identity
- Local Human Rights Commission Activity

The Minnesota Department of Human Rights enforces one of the strongest civil rights laws in the country, the MN Human Rights Act.

The Minnesota Human Rights Act protects the civil rights of Minnesotans in employment, housing, public accommodations, public services, education, credit, and business based on their protected class.

In addition to the federally protected classes, MN adds the following:

- creed, martial status, familial status, disability, public assistance status, age, sexual orientation, and local Human Rights Commission activity

City Policy 7.12 – Respectful Workplace

- Describes types of disrespectful behavior
- Defines sexual harassment
- Outlines how to report violations of the policy
- Protects confidentiality during investigations of possible harassment
- Defines retaliation against someone who reports possible policy violations

In addition to the federal and state protections that exist, the City of Brooklyn Park also has policies in our employee handbook that focus on creating a respectful workplace free of harassment and discrimination. Policy 7.12 – Respectful Workplace, describes the different types of disrespectful behavior, defines sexual harassment, outlines how to report violations of the policy, protects confidentiality during investigations and defines what constitutes retaliation.

Definition of Harassment



INTIMIDATING,
OFFENSIVE
CONDUCT



STATUS OR BENEFITS ARE
DIRECTLY AFFECTED



ADVERSE EMPLOYMENT
ACTIONS (RETALIATION)

Now that we have discussed the laws that are in place to protect employees from harassment and discrimination based on protected characteristics, let's define what harassment is...

Harassment is unwelcome conduct that is based on an individual's protected class. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a **reasonable person** would consider intimidating, hostile, or abusive.

It's important to note that petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.



**Definition of
Discrimination**

The unjust or prejudicial treatment of different categories of people or things, especially on the grounds of protected class status.

Let's define discrimination...

The unjust or prejudicial treatment of different categories of people or things, especially on the grounds of protected class status.

Definition of Retaliation

Retaliation occurs when an employer takes a materially adverse action against an employee *because* the employee engaged in *protected activity*.

Any action that might well deter a reasonable person from engaging in protected activity (reporting) is “materially adverse,” even if the action is unrelated to the employee’s work.

The participation in the complaint process is protected even if the employee knows s/he is lying about the employer. The laws that protect against retaliation for reporting are the same laws that protect against harassment and discrimination in the first place.

Types of Harassing Behavior

Verbal – derogatory comments, racial or sexual comments, offensive jokes or stories

Non-verbal – staring, derogatory or suggestive gestures, winking, shunning, ostracizing

Visual – offensive pictures, photos, cartoons, calendars, objects

Physical – unwelcome touching, hugging, patting, stroking, standing too close

Written – unwelcome personal letters, texts, social media posts or e-mails

Examples?

When can harassment and/or discrimination occur?

Harassment/discrimination can be:

- Employee to Employee
- Supervisor to Employee
- Employee to Supervisor

It can also be:

- Male to Female
- Female to Male
- Male to Male
- Female to Female

Now that we have a better idea of what harassment and discrimination are, and what laws exist to protect individuals, let's look at different situations in which they can occur...

Definition of Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

- Let's define sexual harassment...

Types of Sexual Harassment

- Quid Pro Quo
- Hostile Work Environment

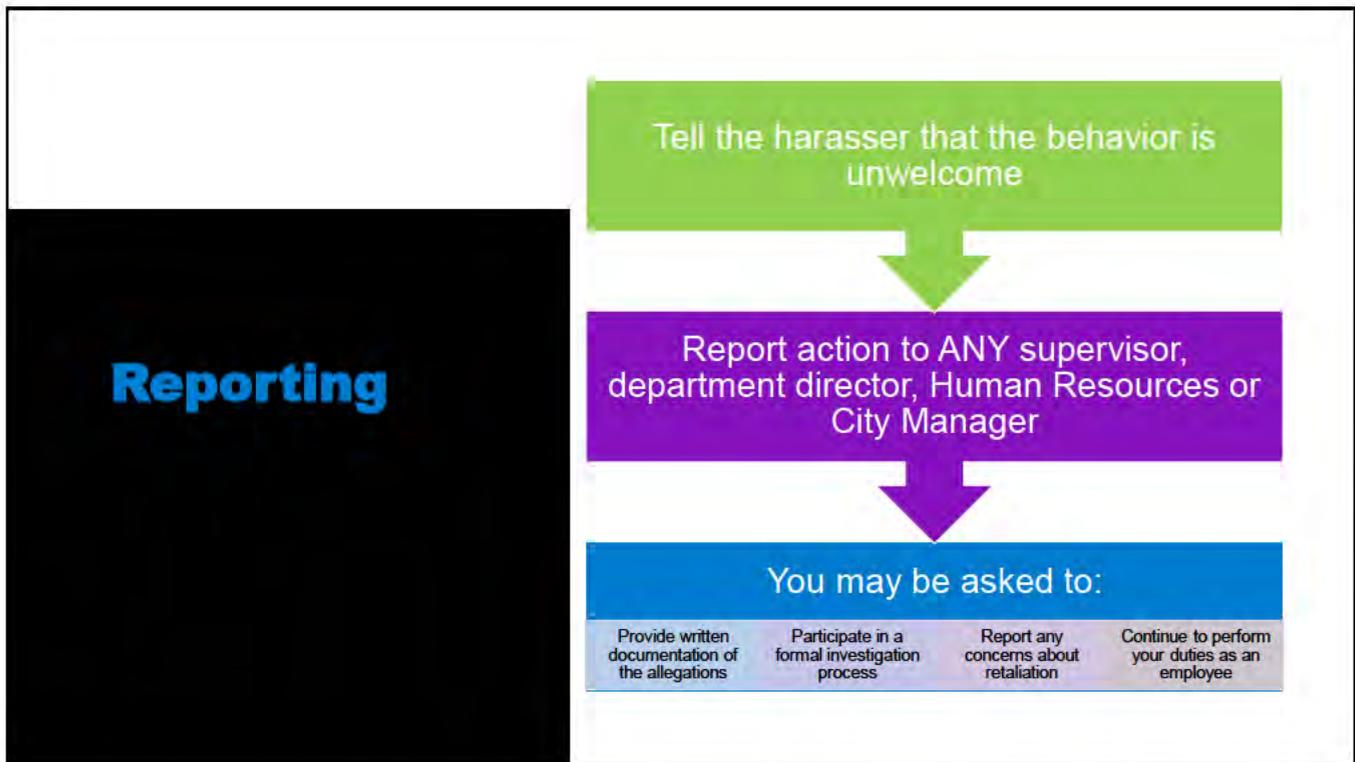
There are two specific kinds of sexual harassment –

Quid Pro Quo

Submission to or rejection of unwelcome sexual conduct is used as a basis for employment decisions

Hostile Work Environment

Unwelcome sexual conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment



HR is bound to investigate by law whether the complainant wants us to or not. This is the process that we use in the City of Brooklyn Park for reporting suspected harassment and discrimination of any kind...

Confidentiality

- A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity
 - Names and statements may be provided that require action to conduct a complete and thorough investigation into the allegations.
- Data Practices Act states the investigation is NOT public but final discipline is public if requested.
- The City will make all efforts to maintain confidentiality and enforce complaints of retaliation.





Treat all people how they want to be treated,
that is according to their tolerance and
comfort level.

Intent vs. Impact. Even if your intent is not to harass or discriminate, the impact of your behavior on the recipient is what matters.

Platinum Rule (not the Golden Rule...an enhancement)

Video:
How was your day?
Getting real about
bias, inclusion,
harassment and
bullying.



We are now going to switch to the video portion of today's presentation. This video is called, "How was your day? – Getting real about bias, inclusion, harassment and bullying."

IV. City Hall Security



V. COVID-19 Update

VI. Critical Incident and Communications 101

Communications 101

Media Relations:

- Please call, text or email the Communications Manager and City Manager if you receive and/or do an interview request

Communications 101



Camille Hepola
Communications Manager
Cell: 763-238-5216
Email: camille.hepola@brooklynpark.org

Communications 101

Media Relations:

- We can help you with talking points
- It's best to use words or phrases to help you speak conversationally and to avoid reading a document

Communications 101

Media Relations:

- Avoid using the words “No comment,” instead you can say “I don’t know.”
- Assume every “off-the-record” conversation is “on-the-record”
- Reporters work under very tight deadlines; they will want interviews immediately

Communications 101

Crisis Communications: Crime, Weather, Public Outcry

- Let city staff (usually public information officer, police or fire chiefs) handle the logistical updates
- Your role is to be a calming voice for residents in times of trouble
- It's important for the Council to be a team and to not put your differences out there publicly during a crisis
- We'll discuss more on critical incidents in a moment

Communications 101

Media Relations:

- Dress business casual or appropriately to where you are
- Don't distract people with your clothes. No patterns, no large jewelry...
- The way you dress plays a part in your credibility with the residents you represent

Communications 101

The City's Social Media Sites:

- Transparent and never takes sides on any issues
- Representatives from the Communications Division are authorized to post on our pages.
- City staff are not allowed to post on community sites such as the Brooklyn Park Bulletin Board as a representative of the City.

Communications 101

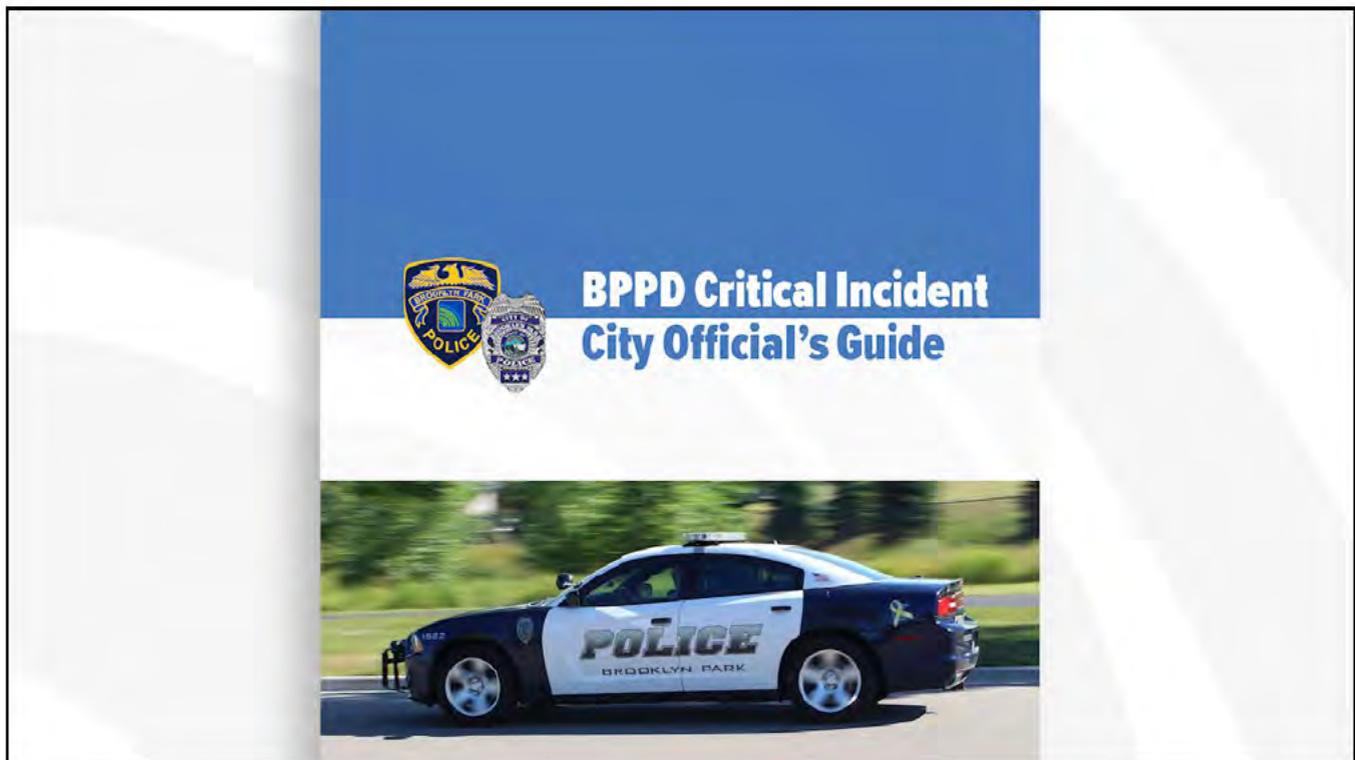
Social Media Recommendations:

- Have a personal and a professional page
- Only post what you would say to a Brooklyn Park resident in person
- You have a responsibility to serve everyone you represent respectfully, and you should welcome diverse opinions on your pages even if you disagree with them

Communications 101

Social Media:

- Remember tone: Letters in CAPS is considered yelling
- Nothing is ever really deleted on social media
- Don't have a page if you will never post anything or check it
- Double check before you post anything



VII. Council and Constituent Questions

Council questions for staff

- All inquiries should first be directed to City Manager, other directors can be copied on the question or request, with one exception...
- Reports of nuisance complaints can go directly to Environmental Health team (Jason Newby.) Please copy City Manager and Marlene Kryder on email communication.
- Staff directed to copy Marlene and Jay on response
- If request is of interest to other Council members, responses shared with full Council in Friday report

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-In our form of government, the City Manager serves as the conduit between Council and Staff

-Unless it's a code complaint or a minor question, I ask that you direct your questions to me and I'll provide an answer to you or direct staff to get back to you

-Staff is expected to inform me of any verbal/written discussions with Council members

-Marlene keeps track of the formal questions that are asked so they can be shared with full Council on Friday reports

-All of these expectations are to make sure the City Manager and Council are fully informed, and Council is getting correct information

Staff response to constituent questions or concerns

- Staff is here to help, don't hesitate to ask
- If you receive a question/complaint, please share that you will look into the matter and get back to the resident. Important to have full information on an issue.
- All inquiries directed to "All City Council, Staff" email account will be answered by staff
- All inquiries should be directed to City Manager, Marlene and if needed, other directors. Jay and Marlene will route appropriately.
- Code enforcement inquiries can be directed to Environmental Health team, but always copy Jay and Marlene

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-Any matter regarding budget, policy, Council agenda, personnel be solely directed to City Manager

-Minor question, reporting a nuisance complaint or other item of that nature, please copy me on email communication

-Staff is expected to copy me and Marlene on correspondence with Council

-All Council questions of significance directed to staff will be shared with full Council on Friday Council requests email

-All of these expectations are to make sure the City Manager and Council are fully informed, and Council is getting correct information, some staff do not always have the full picture

VIII. Administrative Support

Administrative Support

- Council Packet – Mail Packet
- Friday Reports
- Business Cards
- Conferences
- Expense Reports
- Meetings with residents
- Commissions

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Bottom line – see Marlene or me for any of your Administrative needs and we'll help you out

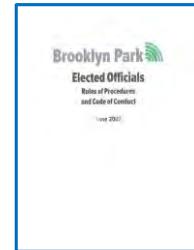
-HAND OUT REPORTS ONE PAGER

IX. Council Actions 101

Council Actions 101

- Robert's Rules of Order
 - In the City Code
 - In the Elected Officials Rules of Procedures and Code Of Conduct
- What are Robert's Rules of Order?

28 ROBERT'S RULES



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The council is guided by Robert's Rules of Order. (City Code and Elected Officials Rules of Procedures)

What are Roberts Rules of Order?

It is a Parliamentary procedure with a set of rules for conducting orderly meetings to accomplish the council's goals fairly to come to a decision. The benefits of this procedure are:

- Provides Courtesy for all council members
- Maintains order of council meeting
- Consideration of one item at a time
- All sides get heard
- Ability for each member to provide input

Some Basic Principles are:

- All members have equal rights, privileges and obligations
- No person can speak until recognized by the mayor
- Only one question at a time may be considered, and only one person may have the floor at any one time
- Members have a right to know what the immediately pending question is and to have it restated before a vote is taken
- Full and free discussion of every main motion is a basic right
- A quorum must be present for business to be conducted
- A motion must be made and seconded for the item to be considered

• **Four** members of the Council voting aye is required for the passage of all ordinances, resolutions and motions except as otherwise provided in the Charter or by statute.

- Amendments to the motion can be made before the vote is taken; Common amendments are: • Striking out words • Inserting or adding words in their place
- Failure to vote shall be recorded as a **yes** vote except in situations where a roll call vote has been requested. (Rules of Procedure)
- Any member of the Council who, being present when his/her name is called, fails to vote upon any of the pending ordinances, resolutions and motions shall be counted as having voted in the **negative** except as provided in Section 14.03 of this Charter or unless the council member affirmatively states that he or she is abstaining from voting. (Charter)
- Tie votes shall be lost motions when all Council Members are present. If a tie vote results at a time when less than all members of the Council are present, the matter shall automatically be continued to the agenda of the next regular meeting unless otherwise ordered by the Council. (Elected Officials Rules of Procedure)

Your Parliamentarian is the City Attorney to assist with the Robert's Rule of Order.

Order of Business

I. Organizational Business

- o Call to Order
- o Public Comment and Response to Prior Public Comment
- o Approval of the Agenda
- o Public Presentations, Proclamations, Receipt of General Communications

II. Statutory Business and/or Policy Implementation

- o Consent
- o Public Hearings
- o Land Use Actions
- o General Action Items

III. Discussion

IV. Verbal Reports and Announcements

V. Adjournment

Monday, September 23, 2020 8:00 a.m. Brooklyn Park, Council Chambers, 5200 87th Avenue North

REGULAR COUNCIL MEETING – AGENDA #37

If you need these materials in an alternative format or need assistance accessing them, contact the City Clerk's Office at 763-439-8200 or emailing CityClerk@cityofbrooklynpark.com.

Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.

Our Brooklyn Park 2025 Goals:

- A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that promote social and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader

I. ORGANIZATIONAL BUSINESS

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT AND RESPONSE 7:30 p.m. Provide an opportunity for the public to address the Council on items which are not on the agenda. Public Comment will be limited to 10 minutes per one or an alternate for Public Comment the regular meeting agenda, and it may not be used to make personal attacks (it is generally prohibited to make personal accusations or to pursue campaign purposes. Individuals should first seek redress by their elected Council Member or write or email the City Clerk. Comments from the Council will be for information only. Public Comment will not be used as a time for public hearing or seeking to be appointed to a position or having the position of a non-substantive policy item.

2A. RESPONSE TO PRIOR PUBLIC COMMENT

2B. PUBLIC COMMENT

3A. APPROVAL OF AGENDA Items identified by the Brooklyn Park Council as items for consideration of the Council or request of any Council Member.

3B. PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS (E.G. Presentation, County Order, 2020 by Council Member, Resolution No. 81 of the City of Brooklyn Park)

A. PROCLAMATION

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. CONSENT All items listed under Consent, unless removed from Consent by agenda item 3A, shall be approved by one simple majority. Consent Agenda items of items assigned to city management or a commission that require Council action by State law, City Charter or City Code. These items must conform to a signed approved public plan, capital improvement project, ordinance or contract. In addition, meeting minutes shall be reviewed.

4.1 Resolution Canceling all (3) General Obligation Bonds, Series 2014A, 2014B, & 2014C to Retire the County of Hennepin Finance Plan Program and Finance in the Amount of \$450,023 for Paralel 2021

A. RESOLUTION

B. DEBT LEVY REQUIREMENTS SCHEDULE

4.2 Table B-1 - Investment Requirement for a Capital Use and State Loans in the Garage and Utility Replacement on Property Located at 1878 Phoenix Parkway North

A. AGENDA ITEM

4.3 Approve Local Trail Connection Agreement with Three Rivers Park District at Trail Connection from Oak Grove Park to Moon Creek Regional Trail

A. RESOLUTION

B. LOCAL TRAIL CONNECTION AGREEMENT AND LOCATION MAP

This is the council’s order of business and for every council meeting, a paper council packet is printed to include the agenda of the “Order of Business” and delivered to the council members.

In the Council Chambers

Microphones at the Dias

- Three Buttons
- Press "Request to Speak"

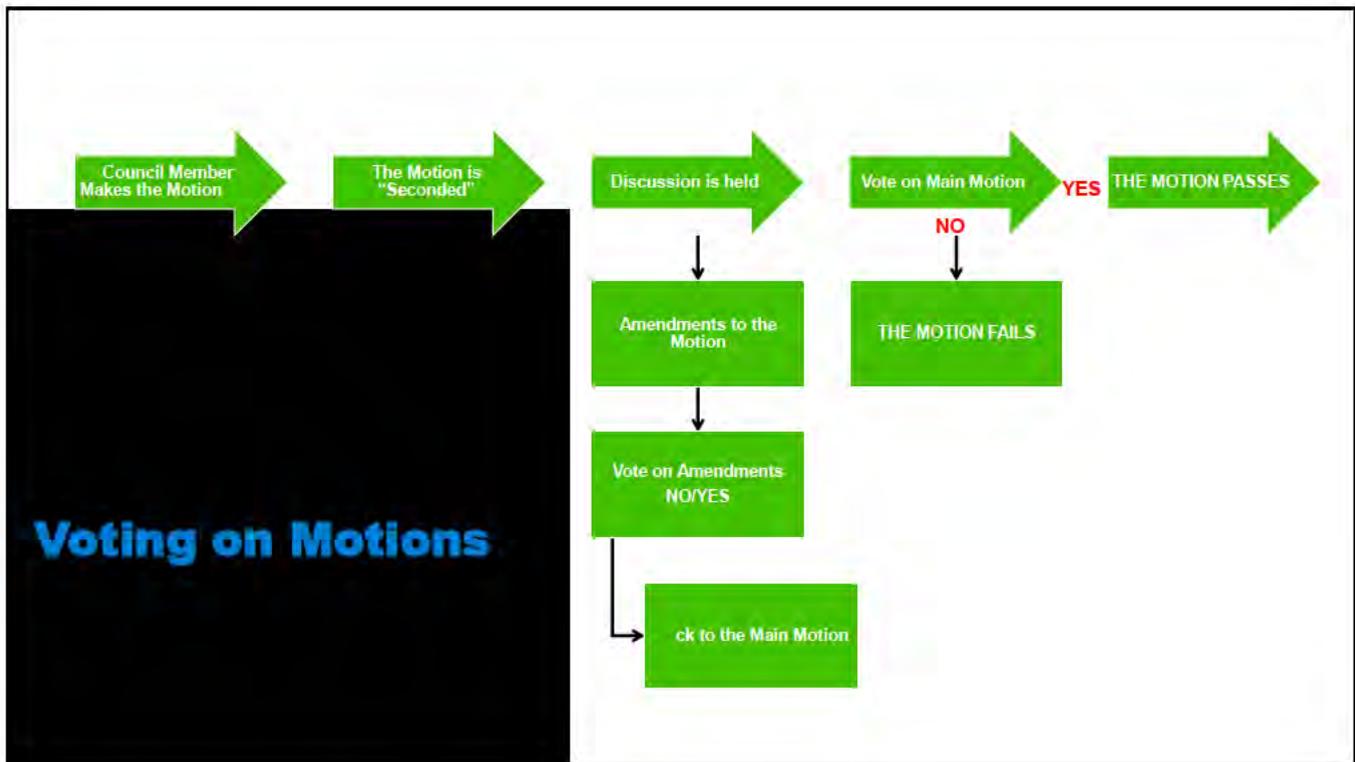


Mayor's Control Panel



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When the council returns to the council chambers, at each council members place, there is a small microphone, with a panel. When a council member wants to talk, select the "Request to Speak" button to let the Mayor know on his Control Panel that a council members wants to talk, and the Mayor will call on the council member.



Council Packets

- Delivered by Community Service Officer (CSO)
 - Afternoon/Evening
- Posted on City Website
- An email with link sent
- Posted on Granicus i-Legislate (IPADS)
- By Thursday, Close of Business



- Unapproved Business
106. Second Reading and adoption of Ordinance approving Special Amendment to Cloud Lease with IP West Coast Products, LLC. (Pete Estee - C, Amendment)
- NEW BUSINESS
- Council Agenda
1. Approval of Minutes - July 5, 2013
2. Report to the committee - American Golf Foundation - LG Men's Trophy Charity Golf Tournament & Dinner - \$2,500
LD - Yvonne Stacey City, Association 2013 Annual Tea
Exchange/Club Administration - \$10,000
Los Angeles County Office of Parks, 37th Creative Drive Golf/Tennis Association - \$0,000
(Communications - A. West)
3. Approve the appointment of Al Moran as representative to the Atlanta-Cornell Transportation Authority Governing Board for a five-year term. (E. Escobar - N, Municipality)
4. Approve Substantial Completion of Work by the GPRB Company, N.Y. Specification HD-5010 for Fire Alarm (M20-1028) and Terminal Building Construction & Site Redevelopment - Milestone 5 - Project 38 and Milestone 7 - Milestone 35, Construction Management - G. Cardenas
5. Approve Substantial Completion of Work by the GPRB Company, N.Y. Specification HD-5010 for Fire Alarm (M20-1028) and Terminal Building Construction & Site Redevelopment - Milestone 11 - Project 3 - Construction Management - G. Cardenas
6. Local Harbor Development Permits - Environmental Planning - R. Gonzalez

Council Packets.

1. The paper packets are delivered by the CSO Thursday afternoon/evening.
2. The electronic packet is also posted on the city's website. An email with direct link to the electronic packet will be sent.
3. The council members with IPADs will have another platform to view the electronic packet using iLegislate.

X. Liaison Responsibilities

Council Liaison Role

- Provide meaningful input on topics as needed, but defer to the Commissioners' advisement
- Council liaisons don't vote on commissions
- Give reports on commission progress at Council meetings
- Give reports on Council activities at Commission meetings
- Do not speak on behalf of the City Council
- Serves as a Council contact rather than an advocate
- Can provide procedural recommendation
- Do not direct the Commission in its activities or work

XI. Technology and Payroll

Technology

- Let us know if you have technology needs
- How to get technology help
 - Anytime, call 763-493-8142
- Conducting remote meetings due to COVID-19 is the recommendation at this point, recent meetings with video have worked well

Payroll

- Paycheck once a month, the second pay period
- Mayor and Council members are reimbursed for travel related expenses to attend municipal functions
- In addition, a \$50 per diem per day as supplemental compensation for each day approved, and for which the member is in attendance

XII. Other Materials

Binder of materials

- I. *Essentials to Getting Started* presentation materials
- II. Basic City Information – vision, goals, census data, etc.
- III. Council Information – polling info, Council/EDA dates, job descriptions, etc.
- IV. Department Information – directory of key staff, org chart, major initiatives, etc.
- V. Key Council Policies and Procedures – Roberts Rules and Code of Conduct
- VI. Social Media and Media Relations
- VII. FAQs
- VIII. Other Miscellaneous Policies and Procedures

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Retreat options – insights training (red, blue, green, yellow)

I will want to meet with each of you 1:1 to understand your priorities within BP 2025

XIII. Future Orientation Dates

Future Orientation Dates

- I. *Essentials to Getting Started* (tonight)
- II. Department and key issue introduction (next Monday)
- III. Introduction to your role as an EDA Commissioner (Tuesday, January 19)
- IV. "Meet Your Council Members" community engagement gathering likely in late February
- V. League of MN Cities conferences (optional)
- VI. Staff leadership and Council retreat (early March)

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Retreat options – insights training (red, blue, green, yellow)

I will want to meet with each of you 1:1 to understand your priorities within BP 2025

Brooklyn Park 
Unique. Unified. Undiscovered.

From: Lisa Jacobson <Lisa.Jacobson@BrooklynPark.Org>
Sent: Thursday, January 27, 2022 9:10 AM
To: Boyd Morson
Cc: Jay Stroebel; jthomson@Kennedy-Graven.com
Subject: Important Matter



Council Member Morson,

City Manager Stroebel received a complaint from a city employee about a matter involving possible inappropriate conduct by you. Pursuant to the procedure set forth in the Code of Conduct for Elected Officials, the City Manager and I reviewed the complaint and consulted with the city attorney. We have concluded that an independent investigation into the matter is warranted.

Kristi Hastings, an attorney with the Pemberton Law Firm, will be conducting the investigation. Ms. Hastings will be in contact with you.

Lisa Jacobson
Mayor

From: Kristi Hastings
Sent: Thursday, February 10, 2022 3:06 PM
To: Boyd Morson
Cc: Kari Nelson
Subject: Brooklyn Park



Mr. Morson,
I wanted to check in one final time to see whether you will meet with me on the matter we have emailed about. Please let me know.
Thank you,
Kristi



Kristi A. Hastings, Attorney
MSBA Certified Labor and Employment Law Specialist
ATIXA Certified Civil Rights Investigator
CELL 218-205-9727
Pemberton Law, PLLP
110 North Mill Street
Fergus Falls, MN 56537
218-736-5493 Ext. 117
k.hastings@pemplaw.com

Contact information:



****Attorney Client Privileged Document****

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From: Kristi Hastings
Sent: Friday, February 4, 2022 7:15 AM
To: Boyd Morson
Cc: Kari Nelson
Subject: RE: Brooklyn Park

Follow Up Flag: Follow up
Flag Status: Flagged

I have provided you all of the information I am able to at this time. Please advise whether we will be meeting or not.

I'm not sure what I should be revisiting about the complaint filing date. It is dated January 20, 2022.

From: Boyd Morson <boyd.morson@brooklynpark.org>
Sent: Wednesday, February 2, 2022 5:56 PM
To: Kristi Hastings <k.hastings@pemplaw.com>
Cc: Kari Nelson <k.nelson@pemplaw.com>
Subject: Re: Brooklyn Park

Kristi,

Thanks for the response. Please provide me with the content of the allegations. What is the complaint all about. Also please revisit the complainants filing date and the actual year of filing and let me know.

Thanks.

Respectfully,

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

From: Kristi Hastings <k.hastings@pemplaw.com>
Sent: Wednesday, February 2, 2022 12:38:47 PM
To: Boyd Morson <boyd.morson@brooklynpark.org>
Cc: Kari Nelson <k.nelson@pemplaw.com>
Subject: RE: Brooklyn Park

Mr. Morson,

The complaint is in writing and it is dated January 20, 2022.

If we meet you will have an opportunity to review the written complaint and we will go through it together sentence by sentence. You will not be provided a copy in advance. You will not be provided a copy to take with you after the meeting. The complaint document contains private personnel data under the Minnesota Government Data Practices Act, specifically Minnesota Statute §13.43.

Please let me know your position on meeting so that we can get that on the schedule.

Kristi Hastings

From: Boyd Morson <boyd.morson@brooklynpark.org>
Sent: Wednesday, February 2, 2022 10:46 AM
To: Kristi Hastings <k.hastings@pemplaw.com>
Subject: Re: Brooklyn Park

Kristi,

Please provide the following information for me; Date of filed complaint and is the complaint in writing?

If I agree to meet, will I be provided with a written copy of the complaint for me to have?

And finally, please provide me with written law, ordinance, rule, policy, or statutes that support your repeated action to deny me information in advance, and equally say I'm not entitled to a copy of this alleged filed action against me or against anyone else in advance of any proposed meeting. Thanks.

Respectfully,

Boyd Morson

Council Member / Central District
W. 763-493-8040 C. 763-327-0100
"Proudly Serving You and the Community"

From: Kari Nelson <k.nelson@pemplaw.com> on behalf of Kristi Hastings <k.hastings@pemplaw.com>
Sent: Tuesday, February 1, 2022 1:09:22 PM
To: Boyd Morson <boyd.morson@brooklynpark.org>
Subject: RE: Brooklyn Park

Mr. Morson,

I was able to confer with the Kennedy & Graven law firm. I am certainly able to share the complaint information with you during a meeting, but I am unable to provide it to you in advance of a meeting. I understand that this means you will not be willing to meet with me. Please confirm this understanding. I will move forward with my investigation either way, but I would prefer to be able to sit down with you and get your perspective on the matter.

Thank you,
Kristi Hastings



Kristi A. Hastings, Attorney
MSBA Certified Labor and Employment Law Specialist
ATIXA Certified Civil Rights Investigator
CELL 218-205-9727
Pemberton Law, PLLP
110 North Mill Street
Fergus Falls, MN 56537
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From: Boyd Morson <Boyd.Morson@brooklynpark.org>
Sent: Monday, January 31, 2022 12:12 PM
To: Kristi Hastings <k.hastings@pemplaw.com>
Cc: Kari Nelson <k.nelson@pemplaw.com>
Subject: Re: Brooklyn Park

Kristi,

I'll wait to hear back from you before scheduling anything until I receive the information in advance that I requested. Thanks.

Respectfully,

Boyd Morson

Council Member / Central District
W. 763-493-8040 C. 763-327-0100
"Proudly Serving You and the Community"

From: Kristi Hastings <k.hastings@pemplaw.com>
Sent: Monday, January 31, 2022 11:08:09 AM
To: Boyd Morson <Boyd.Morson@brooklynpark.org>
Cc: Kari Nelson <k.nelson@pemplaw.com>
Subject: RE: Brooklyn Park

Yes, I was contacted by the Kennedy & Graven law firm.

The only communication I've had with the complainant was the same email as sent to you for scheduling purposes. I will be meeting with her on February 7.

I will seek guidance from the Kennedy & Graven law firm as to your request for a copy of the complaint. In the meantime, is there a different date in February that we can schedule a meeting?

Kristi Hastings

From: Boyd Morson <Boyd.Morson@brooklynpark.org>
Sent: Sunday, January 30, 2022 3:09 PM

To: Kristi Hastings <k.hastings@pemplaw.com>

Subject: Re: Brooklyn Park

Kristi,

First, you're welcome. Now, about your comment that you collegiately asked me, if that would be a good time for us to meet was not a suggested time. But indeed, a set time, date, room number, etc., an established time accommodating you and not respecting or being considerate of my time and availability that you already had developed.

Now, and no, I won't be available to meet with you on February 7th at noon in room A206 at city hall. For the very first cost-saving day, for the city, per your response.

However, and factually... you never spoken to this alleged female staff that didn't seek your assistance? It was, Kennedy and Gavin Law firm, as you again stated in your response, that Kennedy contacted you?

However, not from the female staff that was harmed, hurt, injured, distraught, or can't work, can't sleep, or has repeatedly or continuously felt violated or experienced any form of retaliation by me. Unbelievable.

But for some strange, mysterious, and camouflage reason and a hidden agenda, Jay Strobel, city manager, Jim Thomson, City Attorney, and Lisa Jacobson, mayor, collectively conjured up and found it necessary to advance this complaint forward, wasting taxpayers funds by launching this senseless investigation.

Even when you, up until this point, have never seen, met, or spoken to the female staff, victim, and complainant. In other words, she has no clue of what you all are attempting to do.

The very female staff that hadn't or didn't personally seek your assistance to pursue this complaint any further. However, It was, in fact, the identified names above who all represent and are employed by the city. How sad.

I am not interested in your typical way of doing things. I will not meet with you until you have provided to me in advance a copy of the requested complaint. The complaint encompasses the complainant's name, filing date, and alleged complaint summary. And you have complied with all my other reasonable and entitled requests. The request was outlined in my previous email. Thanks.

Respectfully,

Boyd Morson

Council Member / Central District

W. 763-493-8040 C. 763-327-0100

"Proudly Serving You and the Community"

From: Kristi Hastings <k.hastings@pemplaw.com>

Sent: Saturday, January 29, 2022 7:59:57 AM

To: Boyd Morson <Boyd.Morson@brooklynpark.org>

Cc: Kari Nelson <k.nelson@pemplaw.com>; jthomson@Kennedy-Graven.com <jthomson@kennedy-graven.com>;

Wallner, Maggie R. <MWallner@Kennedy-Graven.com>

Subject: RE: Brooklyn Park

Mr. Morson,

Thank you for responding. In the scheduling email I sent you below, I suggested a time and asked if it would work for you. If it does not, is there another time we should consider? I am meeting with the complainant on February 7 and it would be most cost effective for the city if you and I were also to meet on that date.

I was contacted by the Kennedy law firm to conduct this independent investigation.

When we meet I will share the complaint with you. However, prior to an interview and an opportunity to talk about confidentiality and retaliation protections, I typically do not circulate complaint documents. The complaint relates to your interactions with a female employee. You will have a full and complete opportunity to discuss this matter with me in person and if you want additional time after our interview to consider the situation and submit any follow up information, you will have that opportunity as well.

I look forward to meeting you.

Kristi

From: Boyd Morson Boyd.Morson@brooklynpark.org
Sent: Friday, January 28, 2022 10:49:22 PM
To: Kristi Hastings k.hastings@pemplaw.com
Cc: Kari Nelson k.nelson@pemplaw.com
Subject: RE: Pemberton Law

Kristi,

I have received your email. However, I am unwilling to meet with you. Unless, until, and in advance, I receive all of the following;

1. A mutually agreed upon time. A respected and established in advance a mutual time, that works for the both of us. Not a date and time, that you, just set for me without my consent.
2. A copy of the alleged written and alleged filed complaint with complainant's name, date, signature affixed, along with the nature of his/her alleged complaint contained within. A summary outlining exactly the reason/s describing their alleged written complaint allegations.
3. An explanation of who asked you or hired you to contact me? Was it the city or the alleged staff/complainant?
4. Until all these things are provided and met in advance. There will be "NO" meeting granted, period without any valid and provided proof.

Respectfully,

Boyd Morson

Council Member/Central District
W. 763-493-8040

From: Kristi Hastings k.hastings@pemplaw.com
Sent: Thursday, January 27, 2022 1:31 PM
To: Boyd Morson Boyd.Morson@brooklynpark.org
Cc: Kari Nelson k.nelson@pemplaw.com
Subject: Pemberton Law

Mr. Morson,

I have been asked to serve as an independent investigator into the concerns raised by an employee. I would like to meet with you at 12:00 a.m. on February 7 in Room 206 at City Hall. Please reply that you received this message and that you are available at the above date and time. Thank you!

Kristi



Kristi A. Hastings, Attorney
MSBA Certified Labor and Employment Law Specialist
ATIXA Certified Civil Rights Investigator
CELL 218-205-9727
Pemberton Law, PLLP
110 North Mill Street
Fergus Falls, MN 56537
218-736-5493 Ext. 117
k.hastings@pemplaw.com

Contact information:



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Your agreement to accept e-mail communications constitutes your consent to the use of electronic communications and the risks thereof. This e-mail and any attachments are confidential and are intended solely for the individual or entity to which they are addressed. If you receive this e-mail in error, destroy it immediately.

To: Kristi Hastings
Subject: RE: Request for Copy of Complaint



From: Thomson, James J. <jthomson@Kennedy-Graven.com>
Sent: Tuesday, February 8, 2022 2:34 PM
To: Boyd Morson <Boyd.Morson@brooklynpark.org>
Cc: Jay Stroebel <Jay.Stroebel@BrooklynPark.Org>; wokie.freeman@brooklynpark.org; Mike Freske <Mike.Freske@BrooklynPark.Org>; Kristi Hastings <k.hastings@pemplaw.com>
Subject: Request for Copy of Complaint

Council Member Morson,

You have requested a copy of the complaint that is the subject of the investigation being conducted by Kristi Hastings. The complaint contains private personnel data about the employee who made the complaint and therefore the entire complaint cannot be provided to you. I am, however, attaching a copy of the complaint in which all information that could identify the employee has been redacted. I am copying Ms. Hastings on this email so she is aware that I have provided you with a redacted copy of the complaint.

If you choose to meet with Ms. Hastings, you will undoubtedly become aware of the identity of the employee through questions posed in the interview process. That does not change the fact that the employee's identity is private personnel data. You must therefore refrain from disclosing that information. Doing so would expose you and the city to liability under state and federal law, including the Minnesota Government Data Practices Act. You must also refrain from doing anything that could be viewed as retaliation toward the complainant or other persons involved in the investigation. Such action can also violate state or federal law.

James J. Thomson
Direct: 612.337.9209
jthomson@kennedy-graven.com



Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
Phone 612.337.9300
Fax 612.337.9310

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This message and any attachments are covered by the Electronic Communication Privacy Act, 18 U.S.C. Sections 2510-2521.

From: [REDACTED]
Sent: Thursday, January 20, 2022 8:47 PM
To: Mike Freske <Mike.Freske@BrooklynPark.Org>; Wokie Freeman-Gbogba <Wokie.Freeman@BrooklynPark.Org>; Jay Stroebel <Jay.Stroebel@BrooklynPark.Org>; Thomson, James J. <jthomson@Kennedy-Graven.com>
Subject: Description of the incident [REDACTED]

Jay, Mike, Wokie, and Jim,

Below are the initial notes I took about the incident that happened with Council Member Morson [REDACTED]. I would like to add that [REDACTED] I am [REDACTED] confident in my ability to navigate difficult situations, I perceived Council Member Morson's behavior to be intentionally intimidating. His behavior to me has been often rude and argumentative, but is not unexpected based on what I have seen others experience. I anticipate and prepare for this so that I can best represent the work of my team to him as a member of the Council and the community. I work to find the truth in what he says and look past other negative comments and interactions.

[REDACTED]

[REDACTED] I had a mild panic attack [REDACTED] and shared what had happened with my husband more out of anger than anything else.

If you need additional information from me, please let me know.

Thank you,
[REDACTED]

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject:

Harassment

[REDACTED]

[REDACTED]

I feel singled out by CM Morson personally [REDACTED]

[REDACTED]

This behavior is not welcome or appreciated. It is **inappropriate. I** understand that in my role, that I am to be respectful of elected officials and not **respond in kind when I** am spoken to in that matter. I follow that direction willingly. [REDACTED]

[REDACTED]

City of Brooklyn Park Request for Council Action

Agenda Item:	10.1	Meeting Date:	March 7, 2022
Agenda Section:	Closed Session	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Devin Montero, City Clerk
Ordinance:	N/A		
Attachments:	N/A		
Item:	Close the Meeting Pursuant to MS Section 13D.03, Subd 1 (B) to Consider Strategy Relating to Labor Negotiations – Supervisor’s Contract, and Pursuant to MS Section 13D.05, Subd 3(B) for Purposes of Discussing Attorney/Client Privilege Matters Relating to the Pending Litigation Between the City and Sean Hyman		

City Manager’s Proposed Action:

MOTION _____, SECOND _____ TO CLOSE THE MEETING PURSUANT TO MS SECTION 13D.03, SUBD 1 (B) TO CONSIDER STRATEGY RELATING TO LABOR NEGOTIATIONS – SUPERVISOR’S CONTRACT, AND PURSUANT TO MS SECTION 13D.05, SUBD 3(B) FOR PURPOSES OF DISCUSSING ATTORNEY/CLIENT PRIVILEGE MATTERS RELATING TO THE PENDING LITIGATION BETWEEN THE CITY AND SEAN HYMAN.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A