

**RESOLUTION NO. 3999**

**A RESOLUTION REVISING CITY OF MILES CITY PERSONNEL POLICIES REGARDING RECRUITMENT AND SELECTION, OVERTIME AND COMPENSATORY TIME NON-BARGAINING UNIT, BASIC EMPLOYEE CLASSIFICATION, SICK LEAVE, MILITARY LEAVE, MATERNITY AND PATERNAL LEAVE, FAMILY MEDICAL LEAVE (FMLA), DISCIPLINE, GRIEVANCE POLICY, HARASSMENT PREVENTION AND REPORTING, TRAVEL, BREASTFEEDING IN THE WORKPLACE AND PUBLIC OFFICE LEAVE**

*WHEREAS*, the City of Miles City has established certain personnel policies for employees of the City of Miles City, which are set forth in the City of Miles City Personnel Manual;

*AND WHEREAS*, certain policies require updating in order to be compliant with the requirements of the City's employment practices coverage with the Montana Municipal Interlocal Authority;

*AND WHEREAS*, the City Council finds that certain revisions to such policies should be adopted;

**NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**

1. That the following revised policies, attached hereto as Exhibit "A," are hereby approved and shall replace existing policies in the City's personnel policy manual: Recruitment And Selection, Overtime And Compensatory Time Non-Bargaining Unit, Basic Employee Classification, Sick Leave, Military Leave, Maternity And Paternal Leave, Family Medical Leave (FMLA), Discipline, Grievance Policy, Harassment Prevention And Reporting, Travel, Breastfeeding in the Workplace and Public Office Leave
2. Such changes to the policy shall become effective immediately upon the passage of this resolution.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 25<sup>th</sup> DAY OF OCTOBER, 2016.**

  
John Hollowell, Mayor

ATTEST:  
  
Lorrie Pearce, City Clerk



## **CITY OF MILES CITY PERSONNEL POLICY**

Section 2A:	Recruitment and Selection
Effective:	9/23/2014
Last Revised:	

### **Recruitment and Selection**

#### **Resolution #**

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

### **PURPOSE**

This policy provides guidance for the recruitment and selection of applicants for the City of Miles City vacant positions.

### **POLICY**

It is the policy of the City of Miles City to recruit and select persons for appointment and employment, and to train, advance, promote, and transfer such persons on the basis of individual capability, potential, or contribution to the programs and goals of the City.

Each Department Director, supervisor and employee of the City of Miles City is responsible for conducting employment activities in support of and in compliance with this policy.

The City of Miles City respects, supports, and observes the laws, directives and regulations of the State and Federal Government that prohibit discrimination.

This Recruitment and Selection policy is related to but not limited to; recruitment, selection and testing. This policy does not preclude discrimination based on bona fide occupational qualifications or other recognized exceptions under the law.

### **PROCEDURE**

#### **Personnel Requisition Form:**

A "Personnel Requisition Form" will be filled out by the Department Director of the vacant/open position and forwarded to the Mayor for approval. The Department Director will then forward the form to the Human Resources Office to initiate recruitment procedures.

Recruitment and advertising may begin immediately when the Mayor has been notified in writing that a position is being left vacant/open.

Recruitment for an opening with the City of Miles City will progress through the sequence of checking for qualified laid-off workers (Job Registry), internal recruitment followed by external/public recruitment.

- ❖ **All advertisements must be reviewed and approved by the Mayor or the Mayor's designee prior to placement.**

### **Summary of Recruitment and Selection Policy:**

1. Open positions start with the **Job Registry** for employees who have been laid off. Qualified, laid off employees receive the highest level of preference for filling openings, but do not have exclusive hiring rights.
2. Next, **Internal Recruitment** for current City of Miles City employees. The City of Miles City reserves the right to open all job searches outside the organization. Qualified internal applicants will be considered, but being an internal applicant is not exclusive criteria for selection.
3. Finally, **Open Recruitment Process**.

### **Step One – “Job Registry” Recruitment: (3 Working Days Maximum)**

- A. Employees who have been laid-off through no fault of their own by the City of Miles City are eligible for inclusion on a recall list known as a Job Registry for a period of one (1) year. This registry along with other pertinent employee files will be maintained by the Human Resources Office and referred to as a first step when an opening occurs with the City of Miles City. Laid off employees who are contained on this Job Registry and identified by the Mayor as possessing the minimum qualifications are informed about the opening, and requested to apply if interested. Notification will be done by registered mail to the laid off employee's last known mailing address. Registry applicants must apply for these vacancies within three (3) working days of this notification. In accordance with Section 39-71-317, MCA When an injured worker is capable of returning to work within 2 years from the date of injury and has received a medical release to return to work, the worker must be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities.
- B. The Human Resources Office will compare all openings to the Job Registry list for identification of potential applicants, and submit the list of potential applicants to the Mayor or the Mayor's designee. Qualified laid off employees of the City of Miles City will receive the highest level of preference in filling openings when possible. However, inclusion of a laid off employee(s) on the Registry list must not be interpreted as exclusive hiring rights.
- C. Registry members will be considered prior to Internal Recruitment. In circumstances

- when a tie between two substantially equally qualified applicants exists on the Registry list, the applicant with longer *continuously active* City service will be selected.
- D. An employee's participation on the re-call list ends when:
    - An employee refuses a reinstatement offer;
    - An employee withdraws in writing from participation; or
    - One year has elapsed since the employee's effective date of lay off.
  - E. Recruitment activities through recall list methods are not considered solicitation for applications from the general public; therefore, preference on basis of veteran status, disability, or Indian race is not applicable.
  - F. Human Resource Office shall notify all applicants determined qualified if a Job Registry applicant is selected; or, if the applicant(s) are not selected and that the City of Miles City intends on recruiting internally.
  - G. Once the Deputy City Clerk/Human Resources Officer has determined that no qualified Registry applicants exist and notifications have been made or mailed, the process moves to Step 2.

### **Step Two – Internal Recruitment: (5 Working Days)**

- A. Under the Internal method of recruitment all interested current staff are notified and those responding are considered for existing openings. Qualified Internal applicants will be considered in accordance with this policy, however, an "Internal Applicant" status must not be interpreted as the exclusive criteria for selection.
- B. An updated list of all current job openings will be posted internally. This list will indicate the date of opening, the position title, and a contact name for further inquiry. All internal applicants inquiring about open positions will be given an opportunity to apply; however, the City of Miles City reserves the right to hire applicants from outside when it determines, in its sole discretion, by and through the Mayor or the Mayor's designee that this approach is necessary or desirable.
- C. Interested employees must submit their application in the form of a memorandum to the Human Resources Office through their immediate supervisor. This memorandum should be prepared once the employee has reviewed the Job Description associated with the opening, and determined that he/she meets the minimum requirement of the position. Further applications will not be accepted beyond the designated closing date of the position.
- D. The Deputy City Clerk/Human Resources Officer will notify all internal applicants if selected or, if they are not selected and that the City of Miles City intends to recruit externally. Once the Mayor has determined that is in the best interest of the City to recruit externally, and notifications have been made or mailed, the process moves to Step 3.
- E. Recruitment activities through internal methods are not considered solicitation for applications from the general public; therefore, preference on basis of veteran status, disability, or Indian race is not applicable.
- F. In the event an internal applicant meets minimum qualifications for the position, but the City of Miles City determines that it is in the best interest of the City to recruit externally, qualified internal applications will be carried over to Step 3.
- G. In the event the City of Miles City determines that it will consider internal applications

without posting externally, the internal applicants will move through the hiring process established herein, beginning at the paragraph titled “Application Screening” below. If at any time the internal applicants are removed from the selection process, or if the City of Miles City determines during the selection process that external recruitment would be in the City’s best interest, the process will revert to Step 3.

### **Step Three – General Public Recruitment: (10 Working Days)**

- A. The Human Resources Office will post a vacancy externally to the general public if no qualified Registry applicant has been identified, and if no internal applicants have been selected. Vacancies posted to the general public will generally remain open for two (2) weeks when possible, but may be closed sooner, or extended at the discretion of the Mayor, in consultation with the Deputy City Clerk/Human Resources Officer.
- B. All City of Miles City vacancies subject to external procedures will be made known to the job seeking public. The Mayor may elect to utilize any of the following recruitment sources, Job Service listing, newspaper, the Internet, Community Colleges, or other appropriate sources. The Mayor, in consultation with the Deputy City Clerk/Human Resources Officer may also limit its recruitment to specific geographical areas, but will consider all applications received prior to closing date, irrespective of the applicant’s place of residence.
- C. All employment advertisements must be reviewed and approved by the Mayor prior to placement. Copies of all final ads will be retained for recordkeeping and compliance purposes. Recruitment sources will include both internal and external origins, as described above.

### **Application Screening:**

- A. The Mayor and the immediate supervisor for the position being hired will screen applications for basic qualifications, and the Deputy City Clerk/Human Resource Officer will notify applicants directly if they do not process these qualifications. All applicants must complete a City of Miles City employment application form.
- B. Applications of applicants will be forwarded to the Mayor for consideration. The Mayor, and/or his designee in consultation with the immediate supervisor for the position being hired, will select the top applicants for interview based upon a review of qualifications and/or supplemental application questions.
- C. All applications and/or resumes will be retained by the City of Miles City for two years, or as mandated by Federal and State laws.
- D. Applicants will be informed that if selected, they will be required to provide the City with specific documents establishing their identity and employment eligibility, in accordance with Immigration Reform and Control Act of 1986.

### **Application Screening Process:**

- A. The purpose of the selection process is to identify potential employees who are best

- qualified to meet the specific work requirements and successfully perform the job duties of the open position. In that light, selection procedures will be based on a specific job analysis.
- B. All applicants remaining in competition at each level of the selection process shall be treated consistently with respect to:
    - Contents of the procedure applied;
    - Persons involved in administering the process; and,
    - The maximum amount of time allotted when time procedures are utilized.
  - C. However, consistent treatment should not imply identical treatment.
  - D. Individuals involved with evaluating applicants' qualifications must be familiar with the position to be filled, and must use job related questions, suggested responses, and rating scales to evaluate applicants. This technique must permit accurate comparison of the applicant against the job requirements, as well as the applicant pool.
  - E. Certain entities within the City government may be mandated to require specific qualifications, or use particular measuring guidelines (e.g. POST test) not necessarily pertinent to other departments.
  - F. Any unsuccessful applicant claiming employment preference will be provided a written notice of the hiring decision.
  - G. Provisions must be made for an annual review and update of this Recruitment & Selection Policy by the Human Resources Committee.

#### **Personal Interview of Selected Applicants:**

- A. The Mayor shall appoint a Hiring Committee, consisting of 3 or 4 members, one of which must be the immediate supervisor for the position being hired. The Deputy City Clerk/Human Resources Officer shall be an advisor to the Hiring Committee, and shall attend all meetings of, and interviews conducted by the Hiring Committee. The Hiring Committee, along with the Mayor, in the event the Mayor wishes to be present, shall conduct interviews of selected applicants. All questions asked in a personal interview must be job related and designed to help the interviewer identify the best qualified applicant for the position. The primary objective of the personal interview is to achieve the best match between the applicant's qualifications and the job requirements. Interviews are a reliable method of determining more about the capabilities of minimally qualified applicants. Although interviews are important, the other selection criteria, such as those listed under "Selection Devices" shall be considered. Follow-up questions, as long as they are job related, may be asked of the applicant. These follow-up questions may be based upon an answer to a previously asked question or based upon the application material that the applicant submitted. All follow-up questions and notes from the interviews must be captured for retention in the recruitment file. Further information on conducting interviews may be found in the "Employment Interview Guide" and the "Do's and Don'ts of Interview Questions".
- B. The Deputy City Clerk/Human Resources Officer is responsible for contacting applicants for interviews. If applicants are contacted by phone, they need to be informed of the date, time, and location of the interview. If the applicant cannot be contacted by phone, a letter should be sent and the aforementioned information shall be provided. Applicants who do

- not show up at the appointed time or applicants who withdraw from the interview process may be removed from the applicant pool.
- C. Internal applicants, for City vacancies, will be granted paid time to attend the interview. Once the interview is completed, the employee is expected to return to their work assignment and complete their respective shift.
  - D. The Mayor and/or the Hiring Committee will utilize a “structured interview” method consisting of a certain number of pre-set, job related (as determined by the job analysis) questions addressed to every applicant. The responses of the applicants are then measured against a pre-determined set of guidelines, and ranked accordingly.
  - E. The Mayor, with the advice of the Hiring Committee, shall select a person or persons who will be offered employment, and shall rank those who are acceptable for employment to determine the order in which employment shall be offered, subject to successful reference and background check.
  - F. For a “Department Director” vacancy the Mayor may appoint, but will need the consent of the majority of the Council for finalization of the employment offer. (7-3-213, MCA)

### **Selection Devices:**

The City recognizes many selection devices as long as they:

- Are job related
- Do not create an undue barrier to employment or advancement for protected classes
- Are in compliance with existing policies, bargaining contracts, and relevant State and Federal laws.

Selection devices must be defensible and must allow for the selection of the best applicant for the vacant/open position. Selection criteria must be applied equally to all applicants. Possible selection devices include any combination of the following items.

- Structured questions and suggested answers
- Behavioral questions and suggested answers
- Applicable job-related performance tests
- Relevant education and experience
- Supplemental questions
- Written interview questions.

### **Background Check:**

- A. The City of Miles City conducts all reference and background checks through an outside vendor. A “Request for Investigation” will be completed by the Human Resources Office for the department hiring.
- B. All interviewed applicants will be required to consent to and sign an “Authorization to Release” form and “Acknowledgement” form. All interviewed applicants will receive a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act”.

### **Employment Confirmation:**

- A. Once the final selection is made the successful applicant must be provided with an official Confirmation Letter from the Mayor's office.
- B. The Confirmation letter will address the following topics:
  - Title of job offered
  - Director's name and hiring department
  - Starting salary & benefits
  - Classification, i.e.; Exempt – Non Exempt status
  - Start date with initial work schedule and where to report to work
  - Probationary period information
  - Request for documentation regarding identity and employment eligibility
  - Any other terms and conditions of employment
  - Request for applicants' signature on confirmation letter
  - A deadline for return of said letter to the City.
- C. The Mayor may establish a salary using the "2012 Wage and Benefits Analysis" as a guideline, so long as the salary is within the amount budgeted for said position. If the Mayor feels that an increase in salary is necessary, such amount must be approved by the City Council. The Mayor may also, in his/her discretion, offer a lesser amount in salary. Any exceptions to the "2012 Wage and Benefit Analysis" shall be documented by the Mayor and kept in the hiring/payroll/personnel files.
- D. The Confirmation Letter must accentuate the point that the City of Miles City does not recognize any other offers or promises made to the applicant, and that no City employee other than the Mayor is authorized to modify the conditions of the offer or enter into any agreement with the applicant. The Confirmation Letter must indicate that the appointment is subject to the consent of the City Council, when applicable.

### **Unsuccessful Applicant Notification Letters:**

Both internal and external unsuccessful applicants will be notified in writing by the Deputy City Clerk/Human Resource Officer. Additionally, internal applicants and interviewed applicants will receive a phone call from the Deputy City Clerk/Human Resource Officer prior to the written notification.

### **Document Retention:**

The following materials shall be included among the documents to be saved, by Human Resources Office, for each selection and retained for a period of two years:

- Job description
- Vacancy announcement(s)
- A copy of advertisements and a list of all recruitment sources
- All applications, supplements, questionnaires and other application material
- A copy of all selection procedures and any criteria used to evaluate performance
- Names and titles of any persons who participated in the design or administration of the selection procedures

- Correspondence with applicants
- A copy of the hire letter.

### **Confidentiality and Access to Materials:**

All applications and selection materials shall be confidential, unless otherwise stated on the vacancy announcement, and may not be released to any person not involved in administering the hiring process. Materials may be released upon the receipt of a properly executed administrative or judicial order. Human Resources may discuss, upon request from an applicant, the selection process and scores (if applicable) related to that individual. Information about other applicants is confidential and may not be released.

### **Prospective Full/Part Time Dispatcher Applicants:**

The Recruitment and Selection Policy will be followed with exception to the following: The 911 Coordinator will conduct all criminal and driving background checks through CJIN/NCIC State system. All applicants will be required, consent to and sign an “Authorization to Release-Dispatch” form and “Acknowledgement” form upon completion of a City of Miles City application. All applicants will receive a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act”. The 911 Coordinator will then conduct a preliminary interview of all qualifying applicants. Successful applicants will be forwarded to the Mayor for Applicant Screening.

### **Prospective Full Time Firefighters/EMTs Applicants:**

The City is a member of the Montana Firefighters Testing Consortium (MFTC). Firefighter applications for employment will only be accepted from persons who have successfully completed MFTC testing and are currently on the MFTC eligibility list. Each time a vacancy occurs, all such persons on this list will be notified in writing and invited to submit an application.

Applicants shall be required to complete a City of Miles City employment application. Applicants shall also be required to consent to and sign an “Authorization to Release” form and an “Acknowledgement” form. All applicants will receive a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act”. The selection process will consist of the Fire Chief with his/her Hiring Committee reviewing applications, verifying scores and abilities as determined by previous screening test(s) administered by the MFTC. The Fire Chief will conduct background checks that may include verification of: previous employment, listed credentials, previous training, education and work experience. All of these verifications are part of the preliminary screening of the applicant, and pending the successful outcome of this screening process, the Fire Chief and the Hiring Committee will conduct an oral interview with the applicant.

This policy does not preclude lateral transfers of qualified applicants from other Fire Departments.

### **Prospective Full Time Police Officer Applicants:**

The City is a member of the Montana Law Enforcement Testing Consortium (MLETC). Police Officer applications for employment will only be accepted from persons who have successfully completed MLETC

testing and are currently on the MLETC eligibility list. Each time a vacancy occurs, all such persons on this list will be notified in writing and invited to submit an application.

Applicants shall be required to complete a City of Miles City employment application. Applicants shall also be required to consent to and sign an "Authorization to Release-Police" form and an "Acknowledgement" form. All applicants will receive a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The selection process will consist of the Police Chief with his/her Hiring Committee reviewing applications, verifying scores and abilities as determined by previous screening test(s) administered by the MLETC. The Police Chief will conduct background checks that may include verification of: previous employment, listed credentials, previous training, education, and work experience. All of these verifications are part of the preliminary screening of the applicant, and pending the successful outcome of this screening process, the Police and the Hiring Committee will then conduct an oral interview with the applicant. Upon successful completion of this process, the Police Chief and Hiring Committee will then recommend the applicant to be interviewed by the Miles City Police Commission for final approval.

This policy does not preclude lateral transfers of qualified applicants from other Police Departments.

## **CLOSING**

Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.



## CITY OF MILES CITY PERSONNEL POLICY

Section 6:

Workplace  
Standards

Effective:

Last Revised:

### OVERTIME AND COMPENSATORY TIME NON-BARGAINING UNIT

**Resolution #**

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

It is the policy of the City of Miles City to comply with the Fair Labor Standards Act (FLSA) relative to overtime and compensatory time practices. While some collective bargaining agreements provide additional "premium" pay formulas, all nonexempt employees are subject to overtime and compensatory time under the provisions of the Federal act. Unless otherwise noted by the position description, the workweek is defined as 12:00 A.M. Sunday through 11:59 P.M. on Saturday.

#### I. NONEXEMPT POSITIONS NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT

Nonexempt positions which are subject to overtime and compensatory time but are not covered by a collective bargaining agreement are subject to compensatory time credits as described in the following policy.

#### COMPENSATORY TIME POLICY FOR NONEXEMPT POSITIONS

1. All need for hours worked in excess of the normal work day for the positions will be anticipated by the employee to the extent possible and approved by the immediate supervisor prior to the occurrence or immediately after the incurrence if it is-unanticipated, on a time and attendance form approved by the City.
2. Hours worked in excess of the normal workday will be accounted for and reported to the nearest increment of one-quarter hour (15 minutes).
3. If it is anticipated that an employee will work in excess of forty hours in any work week as a result of working unscheduled or extended hours during the week, the supervisor may allow the employee to take time off during the same week to prevent the employee from exceeding 40 hours of work during said week.
4. An employee who works more than 40 hours in a work week shall be compensated at the

rate of 1.5 times their hourly rate for "overtime" hours. In lieu of receiving pay for overtime hours, the *employee* may choose to receive credit in the form of compensatory time for overtime hours worked as set forth herein.

5. Not more than 120 hours of work over 40 in standard workweeks may be credited by the City to compensatory time. Compensatory time is credited at time and one-half the hours worked over 40 in standard workweeks, and are available to use as time off with pay by the employee. The employee may use accumulated compensatory time credits with sufficient prior notice except in the case of an emergency. All requests shall be on the standard leave request form, and shall be submitted to the employee's immediate supervisor. The City reserves the right to refuse use of compensatory time when, in the opinion of the City, such use would disrupt City operations. The employee has the right to accumulate 120 hours of compensatory time, the City may from time to time cash out any or all of an employee's accumulated compensatory time credits. Should the employee have credits remaining upon termination, he/she shall be paid in cash for all such time at his/her regular rate of pay at the time of termination.

## II. EXEMPT POSITIONS

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

### COMPENSATORY TIME POLICY FOR EXEMPT POSITIONS

While these employees do not qualify for overtime or compensatory time under FLSA, the City believes that some compensatory time is appropriate in order to recognize hours worked substantially beyond those of nonexempt employees. Following are the guidelines for accrual of Compensatory Time for Exempt Positions:

1. Time required for attendance at a City Council Meeting to address an agenda item or at the Mayor and/or President of the Council request will be considered part of the normal work duties for exempt positions and will not count towards compensatory time.
2. Time for emergency call-outs outside of normal workday will not be counted towards compensatory time unless the situation requires leaving one's domicile to assess the situation or to directly supervise workers in the emergency.
3. All need for hours worked in excess of the normal work day for the positions will be anticipated by the employee to the extent possible and a discussion about the need will occur with the supervisor and approved by the immediate supervisor prior to the occurrence or immediately after the incurrence if it is unanticipated.
4. Any compensatory time will also be accounted for on a time and attendance form approved by the City. A narrative entry by the employee, regarding pertinent information about the reason for the compensatory time will be included.
5. Hours worked in excess of the normal workweek will be accounted for and reported to the nearest increment of one-quarter hour (15 minutes) and on a straight-time basis, i.e., not time and one-half.

6. For each hour of compensatory time, the employee may with the prior permission of his or her supervisor take one hour off during the employee's regular work schedule.

7. An employee's running total of accumulated compensatory time may not exceed 120 hours at any one time unless the Mayor authorizes a higher cap after discussions with the individual employee.

8. The employee may use accumulated compensatory time with sufficient prior notice except in the case of an emergency. All requests shall be on the standard leave request form, and shall be submitted to the employee's immediate supervisor. The City reserves the right to refuse use of compensatory time when, in the opinion of the City, such use would disrupt City operations. The employee has the right to preserve compensatory time, except that the City may from time to time cash out any or all of an employee's accumulated compensatory time. The rate for such cash outs shall be determined by dividing the employee's annual salary by 2,080.

9. At the time an employee separates from City employment, any remaining accumulated compensatory time shall be cashed out under the formula established in item 8, above.



## CITY OF MILES CITY PERSONNEL POLICY

Section 3:

Employment  
Information

Effective:

10/14/2014

Last Revised:

### Basic Employee Classification

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

#### **The basic employment classifications of City employment are:**

1. **Probationary Employee:** A newly hired employee during the initial period of employment. All newly hired City employees are on a probationary status which, unless provided otherwise in union agreements or other documents, extends for six (6) months, or in certain cases, one (1) year from their date of hire. Probationary periods may be extended under special circumstances.
2. **Permanent Full-Time Employee (regular):** An employee who has successfully completed the initial probationary period, is assigned to a position which is expected to continue for an indefinite duration, and works a shift schedule which totals no less than 2080 hours per year.
3. **Permanent Part-Time Employee (regular):** An employee who has successfully completed the initial probationary period, is assigned to a position which is expected to continue for an indefinite duration, and works a shift schedule of 20 hours or more, but less than 40 hours per week.
4. **Temporary Full-Time Employee:** An employee whose work assignment is limited in duration to twelve months or less and works a shift schedule which on an annual basis would total no less than 2080 hours.
5. **Temporary Part-Time Employee:** An employee whose work assignment is limited in duration to six months or less and works a shift schedule which, on an annual basis would total less than 2080 hours.
6. **Seasonal Employee:** An otherwise permanent employee designated by the City as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

7. **Short-term Employee:** An employee whose work assignment is limited in duration to ninety (90) days or less, without regard to the number of hours worked, who is not eligible for permanent status, and who may not be hired into another position by the City without competitive selection process.
8. **Transitional Employee:** A City employee who has been temporarily reassigned to duties other than his normal duties under the City's Reasonable Accommodation and Early Return to Work policies.
9. **Part-Paid Employee:** An otherwise permanent employee designated by the City as Part-Paid, who performs duties on an on-call basis for an indefinite duration.



## CITY OF MILES CITY PERSONNEL POLICY

Section 5:

Leave  
Administration

Effective:

3/24/2015

Last Revised:

### Sick Leave

### Resolution #

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

## PURPOSE

The City of Miles City believes that sick leave is earned based upon months of service, and is an important benefit to City employees.

## POLICY

It is the policy of the City of Miles City to administer and grant sick leave in accordance with Title 2, Chapter 18, Part 618 of the Montana Code Annotated.

- A. Eligible Employees:** Employees who have by statute met the ninety (90) day qualifying period and are considered:

1. Regular Full-Time Employees;
2. Regular Part-Time Employees (hours earned pro-rata);
3. Temporary Full-Time Employees;
4. Temporary Part-Time Employees (hours earned pro-rata);
5. Seasonal Employees (hours earned pro-rata).

- Short term employees do not earn leave or time toward the rate earned.

- A. Sick Leave Credits:** The earned number of sick leave hours an employee is eligible to use upon completion of the qualifying period.

## PROCEDURE

- A. Conditions of Use of Sick Leave:**

- Illness;
- Injury;
- Medical disability;
- Maternity-related disability: including prenatal care, birth, miscarriage or other medical care for either employee, child or spouse;
- Parental Leave;
- Quarantine resulting from exposure to contagious disease;
- Medical, dental or eye examination or treatment;
- Necessary care or attendance to an immediate family member (or, at the Department Director's discretion, another relative) for the above reasons until other attendance can reasonably be obtained; and
- Death or funeral attendance for an immediate family member or, at the Department Director's discretion, another person.

### **B. Calculation of Sick Leave Credits:**

Sick leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work.

### **C. Rules Applied to Sick Leave:**

- Employees begin earning leave credits the first day of employment.
- Full-time employees earn sick leave at a rate of eight (8) hours per month.
- Part time employees earn sick leave on a pro-rated basis, depending on how many hours are worked.
- Sick leave credits earned are credited at the end of each pay period.
- No sick time leave with pay shall be granted in advance of credits earned.
- An employee may not accrue sick leave credits while in a leave-without-pay status.
- An employee must continuously be employed for the qualifying period of three (3) months to be eligible to take or receive cash compensation for sick leave upon termination.
  - Cash compensation pay-out for unused sick leave is equal to one-fourth the accumulated sick leave credits.
- An employee is only required to serve the qualifying period once.
  - However, in the event of a break in service, an employee must again complete the qualifying period to be eligible to use sick leave.
- Seasonal employment: accrued sick leave credits may be carried over to the next season, or paid out as a lump-sum when the season is over, provided the employee has served the qualifying time.
- There is no restriction as to the number of hours of sick leave credits that may be accumulated, nor to the number of accrued sick leave credits that may be used for a bona fide employee illness or disability.
- Sick leave taken over a holiday may not be charged to an employee's sick leave for that day.

**D. Sick Leave Requests:**

An employee shall notify his or her Supervisor and/or Department Director of the need to use sick leave as soon as possible prior to the commencement of his or her shift, or as soon as possible thereafter in the case of an emergency.

Employees will submit all sick leave requests on a "Leave Time Authorization" form to their Department Directors as soon as they return.

**E. Sick Leave in Excess of Three (3) Continuous Working Days:**

- A written medical certification from a qualified physician or healthcare provider which states that the employee is unable to work as a result of a sickness, injury or qualifying medical condition may be requested by the employee's Department Director for any sick leave in excess of three (3) continuous working days.
  - Sick leave records will be forwarded to the Human Resource/Payroll Office to be filed in the employee's confidential medical file.
- At the City of Miles City request and expense, an employee may be subject to an examination by a physician following a sick leave or other absence occasioned by illness or injury to ensure that the employee can complete the necessary functions of the position.

**F. Transferred Employees:**

If an employee is transferred between departments, the employee will not be entitled to a lump sum payout for accrued sick leave credits. The department receiving the transferred employee shall assume the liability for the accrued sick credits earned.

**G. Sick Leave Substituted for Annual Leave:**

At the Department Director's discretion, an employee who experiences an appropriate use of sick leave as defined in the policy while taking approved vacation leave may be allowed to substitute accrued sick leave credits for vacation leave credits.

**A. Leave of Absence:**

If an employee who has not worked the required qualifying period for use of sick leave and takes an approved continuous leave of absence without pay exceeding fifteen (15) working days, the amount of time for the leave of absence will not count toward completion of the qualifying period.

A leave of absence exceeding fifteen (15) days is not a break in service and the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period.

An approved continuous leave of absence without pay of fifteen working days or less will

be counted as time earned toward the 3 (three) month qualifying period.

**B. Abuse of Sick Leave:**

The Department Director has the responsibility to monitor the use of sick leave in his or her department.

- Misrepresentation of the actual reason for charging an absence to sick leave, or chronic, persistent or patterned use of sick leave, constitutes abuse of the sick leave benefit. Abuse is subject to progressive discipline, up to termination and forfeiture of the lump sum payment.
- Absences improperly charged to sick leave may, at the City's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the City.

**CLOSING**

**A. Lump Sum Payment Upon Separation:**

Upon separation from the City, an employee who has worked the qualifying period will receive a lump sum payment equal to one-fourth of the pay attributed to unused sick leave. The payment will be computed at the employee's rate of compensation at the time of termination.



## CITY OF MILES CITY PERSONNEL POLICY

Section 5:

Leave  
Administration

Effective:

3/24/15

Last Revised:

### Military Leave

### Resolution #


- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

The City of Miles City shall comply with all provisions outlined in the Uniformed Services Employment and Reemployment Rights Act, (USERRA, 38 USC Sec. 4031 et seq) as well as all relevant state laws (to include MCA 10-1-1009) covering members of the Montana Army and Air National Guard.

An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for a period of six months shall be given leave of absence with pay for a period of time not to exceed 120 hours in a calendar year.

Unused leave may roll to the next calendar year, not to exceed 240 hours total for the calendar year. Any excess leave, beyond 240 hours, will be forfeited. Military Leave can be for attending regular encampments, training cruises, and similar training programs of the military forces of the United States.

Employees employed less than six months are entitled to unpaid leave for the purposes listed above. Employees using Military Leave must report it as such on their timesheets and have prior approval for leave. This leave will not be charged against the employee's annual leave.

 <b>CITY OF MILES CITY PERSONNEL POLICY</b>	Section 5:	Leave Administration
	Effective:	3/24/2015
	Last Revised:	
<b>Maternity and Parental Leave</b>		
<b>Resolution #</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

## **POLICY**

It is the policy of the City of Miles City to grant unpaid leave of absence for maternity and parental leave:

- Maternity leave is an unpaid leave of absence available to female employees for temporary disability because of pregnancy and delivery.
- Parental leave is an unpaid leave of absence not to exceed fifteen (15) working days available to birth fathers or permanent employees who are adopting a child.

Eligible employees taking maternity or parental leave concurrently with Family and Medical Leave Act (FMLA) leave must follow the FMLA Leave Policy (*Family and Medical Leave Policy*) requirements. The FMLA Leave Policy takes precedence over this policy.

## **PROCEDURE**

### **A. Requesting Leave:**

1. Employees requesting maternity or parental leave should give at least give a 30-day advance oral or written notice of the need to take leave, or as soon as practical when advance notice is not possible.
  - The leave request should include the anticipated length of absence and the employee's intended use of accrued paid leave while on maternity or parental leave.

### **B. Maternity Leave Use:**

1. A reasonable leave is determined case-by-case and is based up on the employee's ability to perform her job. In the case of normal pregnancy and delivery, Department Directors must grant a minimum of six (6) calendar weeks after the birth of a child as a reasonable period for recovery.

2. Leave may be longer if the employee is unable to perform her job prior to delivery or if there are complications like illness or surgical delivery. If the Department Director and the employee cannot agree on a reasonable period for maternity leave, the Mayor, in consultation with the Human Resource Officer, should rely on the judgment of the employee's medical provider.
3. An employee shall not be required to obtain medical certification of a temporary disability for the initial six (6) calendar weeks of leave following the birth of a child. However, the Mayor, in consultation of the Human Resource Officer, may require the employee to provide medical certification to extend the maternity leave beyond the minimum six (6) calendar week period. The certification should state that the employee is unable to perform her employment duties and give the estimated duration of the extended leave.
4. The employee is responsible for providing timely, complete, and sufficient medical certification. The employee must provide the certification within fifteen (15) calendar days after the Department Director's request, unless it is not practicable to do so despite an employee's diligent, good-faith effort.
5. Department Directors should not ask employees probing questions regarding their medical conditions that may elicit genetic information about an employee or an employee's family members.

**C. Parental Leave Use:**

1. Parental leave is available to birth fathers, and non-birthing mothers who are in the same sex marriage, immediately following a child's birth, or to permanent employees who are adopting a child.
2. The employee's Department Director must approve a reasonable leave of absence, not to exceed fifteen (15) working days, for parental leave immediately following the birth of a child or placement of a child with the employee for adoption.
3. The employee's Department Director, in consultation with the Human Resource Officer, may approve less than fifteen (15) working days, if he or she determines the length of leave requested is unreasonable. The Department Director, in consultation with the Human Resource Officer, must provide the employee with a written response explaining why the request is unreasonable. The written notice must also include the length of leave considered reasonable and approved.

**D. Accrued Paid Leave Use:**

1. Both maternity and parental leaves are unpaid. However, employees may use accrued paid leave concurrently with maternity or parental leave. Employees must request the use of additional leave consistent with City policy applicable to the type of leave requested.
2. The City limits the use of sick leave to fifteen (15) days for birth fathers and adoptive parents, unless the absence qualifies for the use of sick leave for another reason and the City has

chosen to treat non-birthing mothers in a same sex marriage the same as birth fathers for purposes of this policy.

**E. Concurrent FMLA Leave:**

1. Eligible employees may take up to twelve (12) weeks of FMLA leave for the birth or adoption of a child. Maternity and parental leave run concurrently with FMLA leave. Maternity and parental leave should count towards an eligible employee's FMLA leave entitlement. Employees may not use maternity or parental leave to extend the length of FMLA-leave entitlements.
2. When eligible employees take maternity or parental leave concurrently with FMLA leave, the FMLA policy requirements take precedence over this policy. Department Directors and the employee must follow all medical certification procedures and timelines required by the FMLA Leave Policy and Federal regulations.

**F. Reinstatement:**

1. Employees returning to work at the end of a reasonable leave of absence for a maternity or parental leave must be reinstated to their original job or to an equivalent position with equivalent pay and accumulated longevity, retirement, and leave benefits.


## **CLOSING**

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**Prohibited Acts:**

1. As provided in 49-2-310, MCA, it is unlawful to:
  - a. Terminate employment because of pregnancy;
  - b. Refuse to grant the employee a reasonable leave of absence for the pregnancy;
  - c. Deny the employee who is disabled as result of pregnancy any compensation to which the employee is entitled as a result of the accumulation of disability or leave benefits accrued, provided that the employer requires the disability to be verified by medical certification indicating the employee is not able to perform employment duties; or
  - d. Require an employee to take a mandatory maternity leave for an unreasonable length of time.

Nothing in this policy prohibits an employee from voluntarily returning to work sooner than six (6) calendar weeks after the birth of child.

 <b>CITY OF MILES CITY PERSONNEL POLICY</b>	Section 5:	Leave Administration
	Effective:	3/24/2015
	Last Revised:	
<b>FAMILY MEDICAL LEAVE (FMLA)</b>		
<b>Resolution #</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

## **PURPOSE**

The City of Miles City believes that Family Medical Leave is an important benefit to City employees. This policy provides the framework under which the Family and Medical Leave Act (FMLA) will be administered by the City of Miles City. This policy also provides employees information about FMLA entitlements and outlines any obligations employers and employees may have during such leaves.

### ***Eligibility***

An eligible employee can take up to 12 weeks of leave per year if he/she has worked for at least 1,250 hours within the previous 12 months and have been employed for 12 months. These months need not be consecutive. For an employee to be eligible for FMLA the employer must employ 50 or more employees within 75 miles of the worksite.

### ***Types of Leave Covered***

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

- ◆ The birth of a child and in order to care for that child;
- ◆ The placement of a child for adoption or foster care and to care for the newly placed child;
- ◆ To care for a spouse, child or parent with a serious health condition (described below);
- ◆ The serious health condition (described below) of the employee;
- ◆ Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty;
- ◆ Military caregiver leave (also known as covered servicemember leave) to care for an injured or ill servicemember or veteran.

Employees are required by law to provide at least a 30-day notification of intent to use Family or Medical Leave whenever possible. Employees will be required to use their paid annual leave or sick leave for any part of the 12-week period. The remaining portion of the leave will be unpaid leave.

It is the practice of the City of Miles City to designate an eligible employee who is out for more than three days, due to a work place injury or illness under FMLA. Worker's Compensation and FMLA will run concurrently when necessary and when the employee is eligible.

### ***Amount of Leave***

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

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

If both spouses work for the City of Miles City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not parent-in-law) with a serious health condition, the spouses may only take a total of 12 weeks of leave.

### ***Certification of Medical Condition***

Upon request of your supervisor, Human Resource Officer, and/or the Mayor, employees must provide certification explaining the serious health condition or the family member's condition. It should detail:

- ◆ the date on which the condition began
- ◆ the probable duration of the condition
- ◆ appropriate medical facts regarding the condition
- ◆ a statement that the employee is needed to care for a spouse, parent or child
- ◆ a statement that the employee's own health condition makes it impossible for him or her to work

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

### ***Employee Status and Benefits During Leave***

While an employee is on leave, the City of Miles City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the company may require the employee to reimburse the city/town the amount it paid for the employee's health insurance premium during the leave period.


The employee is required to continue to pay their share, if any, of premiums for health benefits. If in a paid status, these will continue to be taken from paychecks, if in a leave without pay status, the employee will be required to submit the payment to the Human Resource Officer in person or by mail. The payment must be received by the 5<sup>th</sup> day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide notice prior to the loss of coverage.

### ***Employee Status After Leave***

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider before returning to work. Generally an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefit and other employment terms.

Under certain conditions, employees who are designated as "key" may be denied job restoration rights. These employees must be in the highest paid 10% of the work force and their absence must mean a substantial economic loss to the company. If a person designated as "key" still takes family leave, the City of Miles City will pay the health care premiums, but no guarantees are made about returning them to the positions they left.

An employee who fails to return to work on his or her regularly scheduled work day after the pre-approved leave without pay period will be considered to have voluntarily resigned unless the leave period is extended, in advance, by the Mayor. Providing false or misleading information or reasons to justify a FMLA absence may result in discipline, up to and including termination. FMLA provisions indicate that at the City of Miles City discretion, health care premiums may be recovered from employees who do not return to work.

 <b>CITY OF MILES CITY PERSONNEL POLICY</b>	Section 6:	Workplace Standards
	Effective:	
	Last Revised:	
<b>Discipline</b>		
<b>Resolution #</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

The City of Miles City, at its discretion, may investigate and take disciplinary action upon learning of a suspected violation of federal, state or local laws, Miles City rules and/or regulations, employee conduct/behavior/performance standards, Miles City policies, or other conduct not in the best interests of the City of Miles City. The supervisor, the Mayor, or the Mayor's designee may informally investigate any allegation of improper conduct to the extent necessary to determine whether a full investigation into the matter is appropriate. In the event the Mayor determines that a full investigation is appropriate.. Employees may be placed on administrative leave (with or without pay) pending investigation, in the discretion of the Mayor. The investigation shall be completed at the direction of the Mayor by the supervisor or a designee appointed by the Mayor as investigator, and the final step of the investigation shall include an interview with the employee.

Upon completion of the investigation, the employee will be notified in writing and in general terms as to the details of the alleged violation or misconduct, and an interview with the employee will be scheduled. The employee being interviewed may request an attendee of their choosing be present at the interview; however such attendee will be permitted to observe only and will not be permitted to participate in the interview. At the beginning of the interview, the employee will be given the following warning: "You are being asked to provide information as part of an internal and/or administrative investigation. This is a voluntary interview and you do not have to answer questions if your answers would tend to implicate you in a crime. No disciplinary action will be taken against you solely for refusing to answer questions. However, the evidentiary value of your silence may be considered in administrative proceedings as part of the facts surrounding your case. Any statement you do choose to provide may be used as evidence in criminal and/or administrative proceedings."

Upon conclusion of the investigation, the investigator shall submit a detailed report to the Mayor, and the Mayor will review the report, request additional information if deemed necessary, and decide whether discipline is appropriate, and if so, at what level. All affected parties will be advised, at an appropriate level, of the investigation results.

Discipline, as determined by the City of Miles City, may be imposed in one of the following forms. This is not a progressive discipline policy.

#### **Oral Reprimand**

The supervisor and/or Mayor or Human Resource Officer will meet with the employee to explain the issue(s), the expectations moving forward and the consequences should the employee not conform or comply with the

stated expectations. This conversation will be summarized in writing. The employee and the supervisor will sign the summary which attests that the meeting took place, that the employee understood the problem and the corrective action required. The summary will be placed in the employee's personnel file.

#### **Written Reprimand**

The supervisor, the Mayor and/or the Human Resource Officer will meet with the employee to explain the issue(s), the expectations moving forward and the consequences should the employee not conform or comply with the stated expectations. The summary of the issue(s) and the corrective action required will be presented in a letter to the employee. The employee and the supervisor will sign the summary which attests that the meeting took place, that the employee understood the problem and the corrective action required. The summary will be placed in the employee's personnel file.

#### **Suspension (with or without pay)**


The supervisor, the Mayor and/or the Human Resource Officer will meet with the employee to explain the issue(s), the expectations moving forward and the consequences should the employee not conform or comply with the stated expectations. The summary of the issue(s), the corrective action required and the dates and conditions of the suspension will be presented in a letter to the employee. The employee and the supervisor will sign the summary which attests that the meeting took place, that the employee understood the problem and the corrective action required. The summary will be placed in the employee's personnel file.

#### **Demotion - Loss of Duty**

The supervisor, the Mayor and/or the Human Resource Officer will meet with the employee to explain the issue(s), the expectations moving forward and the consequences should the employee not conform or comply with the stated expectations. The summary of the issue(s), the corrective action required and the specific conditions of the demotion will be presented in a letter to the employee. The employee and the supervisor will sign the summary which attests that the meeting took place, that the employee understood the problem and the corrective action required. The summary will be placed in the employee's personnel file.

#### **Termination**

If the City of Miles City determines that the appropriate disciplinary action is termination, Regular, Non-Probationary employees will receive a letter that documents the problem and summarizes the results of the investigation. The letter will detail the cause and date of discharge. The letter shall also include a copy of the Grievance Procedure Policies. The supervisor, the Mayor and/or the Human Resource Officer will meet with the employee and provide him/her with the letter. All terminations must be approved by the Mayor.

 <b>CITY OF MILES CITY PERSONNEL POLICY</b>	Section 6:	Workplace Standards
	Effective:	
	Last Revised:	
<b>GRIEVANCE POLICY</b>		
<b>Resolution #</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

It is the policy of the city of Miles City that employees who have attained permanent status may file a grievance provided in these rules, unless the employee is covered by a grievance procedure provided under a collective bargaining agreement or a statutory grievance procedure.

#### Objective

It is the objective of this policy to provide minimum standards for the procedure to be used to adjust grievances filed by eligible employees not covered by a collective bargaining agreement.

A. Incidents of harassment must be reported using the procedure in the harassment prevention policy.

B. Incidents that are alleged to be in violation of the Americans with Disabilities Act (ADA) of 1990 must be reported using an ADA complaint resolution procedure.

Otherwise, the employee shall proceed under this policy.

C. Nothing in this policy precludes an employee who is alleging unlawful discrimination from concurrently exercising any statutorily-protected right to timely file a complaint with a civil rights enforcement agency.

#### Definitions

A. "Employee" means:

1. any city employee except those covered by a collective bargaining agreement
2. or an employee who has not completed a probationary period or a probationary period is extended and the employee has to attain permanent status;
3. when an employee is hired as a temporary employee or short-term worker or an employee is temporarily hired into a permanent position for less than 12 months and is not eligible to attain permanent status; and
4. when persons are contracted as independent contractors or perform their duties.

B. "Grievance" means a complaint or dispute by and employee regarding the application or interpretation of written laws, rules, personnel policies or procedures, which adversely affects the employee.

C. "Grievant" means an employee who has filed a formal grievance.

### Employee Grievance

A. An eligible employee may file a grievance based on the application or interpretation of laws, written rules, personnel policies and procedures which adversely affects the employee, unless specifically prohibited from doing so by statute or rule.

B. An employee other than the grievant may, at the city's discretion, be given working time off to participate in an investigation or hearing. This time may be paid working time, if the employee's participation is at the agency's request. Other employees may request to use appropriate paid leave, leave of absence without pay or accrued compensatory time to attend a hearing. Use of leave or compensatory time shall be requested and approved consistent with city policies relating to the type of leave requested.

### Grievance Procedure

A. Step I is the informal resolution. Both the employee and supervisor are encouraged to resolve the grievance informally whenever possible.

B. Step II is the formal grievance.

1. A formal grievance shall be filed in writing within 15 calendar days from the occurrence of the grievable event. The formal grievance shall be filed with the mayor.

2. A formal grievance shall state specifically the law, written rule, policy, and/or procedure violated; when the action occurred, and the remedy desired by the grievant. It shall be signed and dated by the grievant.

3. The Mayor shall respond in writing to a formal grievance within 15 calendar days from the date it is filed.

4. The grievance is resolved at step II if the grievant accepts the mayor's response, or if the grievant fails to advance the grievance to Step III within 15 calendar days of the receipt of the Mayor's response.

C. Step III is the review by the city's Human Resource Committee.

1. If a grievant wishes to advance the grievance to Step III, the grievant shall notify the Mayor in writing. The grievant shall notify the Mayor within 15 calendar days of receipt of management's response at step II.

2. If the subject of the grievance is suspension without pay for more than 10 working days, disciplinary demotion, or discharge, the mayor shall order a hearing of the City Council. All other grievances shall advance to final review by the Human Resource Committee.

3. The Chairperson of the Human Resource Committee shall review the grievance and shall issue the final administrative decision on the grievance either:

- a. within 20 calendar days of the grievant's request for final review;

- b. within 15 calendar days of receipt of a hearings summary, if applicable; or,

- c. the Human Resource Committee chairperson shall notify the grievant and mayor concerning any additional actions ordered which will delay the decision.

D. At the discretion of the Human Resource Committee Chairperson, the final review may include review of the written grievance, review of mayor's response, and review of the time record of any investigation or hearing, or the Chair of the Human Resource Committee may authorize an additional investigation, may conduct a discussion with the grievant or may order a hearing.

E. The Human Resource Committee's final decision shall be issued in writing. This is the final step of this grievance procedure.

### Hearing

A. A hearing shall be conducted by the City Council at Step III, if the grievance is filed as the result of a suspension without pay for more than 10 working days, a disciplinary demotion, or a discharge. Within 10 working days of advancement of the grievance to Step III, the mayor informs the grievant of the hearing date in front of the City Council.

B. At the hearing both parties shall have:

1. the right to introduce evidence;
2. the right to cross examine;
3. the right to be represented; and,
4. the right to a recommendation for resolution based on the recorded evidence and matters officially noticed.

C. The City shall pay all costs of:

1. physical arrangements for a hearing; and,
2. Mayor's witnesses and evidence.

D. The grievant shall pay fees and expenses of:

1. the grievant's representative; and,
2. the grievant's witnesses and evidence, unless the witness also is a Mayor's witness.

F. A recording shall be made of the hearing. The party requesting the transcript shall bear the cost. If both parties request a transcript, they will share the cost.

G. The City Council will issue a final decision within 15 calendar days of the hearing.

### Failure to Act

A. If the employee fails to respond within the time frames established for a step, the grievance is considered resolved in favor of the last response given by mayor. The employee may not refile the grievance.

B. If mayor fails to respond within the time frames established for a step, the grievant may proceed to the next appropriate step of the procedure.

### Waivers

Any step of the procedure and timeframes in the procedure may be waived upon written agreement of both parties.

### Grievance Resolved

A grievance is resolved when:

- A. the grievant requests in writing that the grievance be withdrawn or signs a waiver that a resolution has been achieved;
- B. the grievant leaves city employment, unless discharged;
- C. the grievant dies, unless the grievance involves pay or fringe benefits;
- D. the grievant fails to advance the grievance in the required time frames;
- E. the final steps of the grievance procedures are completed.

### Closing

This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.



## CITY OF MILES CITY PERSONNEL POLICY

Section 6:

Workplace  
Standards

Effective:

Last Revised:

### Harassment Prevention and Reporting

#### RESOLUTION #

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

It is the policy of the City of Miles City that harassment, based on a protected class will not be tolerated. Each individual has a right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, employees are expected to act in a professional, cooperative and respectful manner to all contacts.

It is the policy of the City of Miles City to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, national origin, creed, sex, marital status, veteran/military status, genetic history, political belief, age or disability both in or outside the workplace, on or off shift, in person or via electronic communication such as email, social media, etc.

Any employee who perceives a conversation or event as harassment, whether the employee is involved or merely observing, should explain to the offender in a calm, but firm manner that the action is perceived as inappropriate and the employee wishes the behavior to stop. Should the behavior continue, the employee should report the activity to their supervisor, the Mayor OR the Human Resource Officer.

The City of Miles City encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the City to promptly and thoroughly investigate such reports with due regard to confidentiality. The results of the investigation will be communicated to the complainant and the offender. Discipline will follow guidance found in the Discipline Policy.

A follow up review will be completed if harassment allegations have been made to ensure the harassment has discontinued and all parties involved are not subjected to retaliatory behaviors.

#### *Definitions of Harassment*

*Sexual Harassment:* According to the EEOC and Montana Human Rights Bureau, sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. For example:

- Occasions when such conduct, either explicitly or implicitly, is a term or condition of employment
- Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals
- Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Examples may include unwanted sexual advances or requests for sexual favors; sexual jokes or innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; gestures; suggestive objects of pictures or other physical, verbal or visual conduct of a sexual nature.

*Other Harassment:* Harassing behavior based on any other protected characteristic. For example: verbal, written or physical conduct that denigrates or shows hostility or aversion toward another because of his/her race, color, religion, national origin, creed, sex, marital status, genetic history, sexual orientation, political belief, age or disability

## **Retaliation**

No hardship, no loss or benefit, and no penalty may be imposed on an employee as punishment for:

- a) Filing or responding to a bona fide complaint of discrimination or harassment;
- b) Appearing as a witness in the investigation of a complaint; or
- c) Serving as an investigator.

Please report any retaliation to your supervisor, the Mayor or Human Resource Officer. Any report of retaliatory conduct will be objectively, timely and thoroughly investigated in accordance with the City's investigation procedure. Retaliation or attempted retaliation is a violation of this Policy and anyone who does so will be subject to disciplinary actions, up to and including termination.



## CITY OF MILES CITY PERSONNEL POLICY

Section 6:	Workplace Standards
Effective:	3/24/2015
Last Revised:	

### TRAVEL

#### Resolution #

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

#### Introduction

Traveling is a necessary operation of city government. However, city departments should always remember that travel expense could be a major budget consideration if it is not properly managed. Departments must always be aware of the need for efficiency and economy in travel. The responsibility for adhering to the laws and providing effective managerial control rests with each employee. Unless covered by a separate section of statute, all elected officials, appointed members of boards, commissions, or councils, department directors and all other city employees are subject to this policy. To the extent practical, the City policy mirrors the travel policy in place for employees of the State of Montana.

#### Travel Guidelines

When considering travel the following guidelines apply:

- A. The Mayor must approve all out-of-state travel in advance.
- B. The employee's immediate supervisor must approve all other travel.
- C. Each department shall hold to the absolute minimum the number of personnel attending a function requiring travel.
- D. Lodging expenses are to be kept as low as possible and every effort will be made to obtain government rates.
- E. Transportation costs will be kept as low as possible and time away from regular work will be minimized as much as possible.
- F. The least expensive class service available for all commercial air travel will be used.
- G. Employees traveling by car will adhere to all applicable traffic laws.
- H. The Department Director or the Mayor will approve all travel plans, in advance.
- I. If an employee travels each day from home to work, that is not considered a travel status for the purposes of this policy.

#### Commercial Airline

- A. Travel by commercial airline is allowed if the cost of such travel is less than by ground transportation and/or if it is a situation where the time away from the worksite for the employee needs to be kept to a minimum.
- B. Department Directors or the Mayor will approve all commercial air travel.

#### Use of City-Owned or City-Leased Vehicles

- A. Employees subject to emergency call out because they work in a 24-hour, seven day per

- week Department will be allowed to take city-owned vehicles home.
- B. City owned vehicles may be available for out-of-town travel and city credit cards may be used for fuel purchases.
- C. The employee who is in charge of the city-owned vehicle is responsible for insuring that proper maintenance is completed on the vehicle.

#### **Use of Personal Vehicles**

- A. Employees will receive a mileage reimbursement for use of a personal vehicle for
- B. City business when:
  - 1. No city owned vehicle is available for travel; and,
  - 2. The use of a personal vehicle is considered to be in the best interests of the City.
- C. Exceptions
  - 1. An employee may option to use his or her own vehicle when a city-owned vehicle is available but is in that case will receive will receive one-half the current approved state mileage rate, as reimbursement.
  - 2. Department employees who are subject to emergency call out and work in a 24-hour, 7 day per week Department, may option to use their own vehicle for city work. In this case the employee will receive a monthly stipend based upon an average number of work miles driven per month. That average will be reviewed yearly and will be based upon a log kept for a specified period of time as mutually agreed to by the Mayor and employee. The stipend will be based upon the approved state mileage rate and will not include mileage between the work place and home.
- D. Employees who choose to use a personal vehicle for city business and there are reimbursed mileage, the employee must comply with liability protection provisions of Section 61-6-3, MCA, and must be aware of personal vehicle usage liability.
- E. City mileage rates will be adjusted when the State of Montana changes their mileage rates.

#### **Private Rental Agency Vehicle Contract**

These costs are not allowed by the city unless it is a road emergency, and then reimbursed only following contact and approval by department director.

#### **Meal Allowances**

- A. To be eligible for a meal allowance while traveling on City business, the employee must be in a travel status for more than 3 continuous hours and be at least 15 miles from the work site or home, whichever is closer.
- B. May not request reimbursement for meals included in the cost of a conference registration that is paid by the City or for meals provided by the City or another governmental entity.
- C. Meal Allowance Time ranges. In order to claim a meal allowance, the employee must be in a travel status for more than three continuous hours within one of the following time ranges:

Time Range	Meal Allowed	
12:01 a.m. to 10:00 a.m.	Morning Meal	
10:01 to 3:00 p.m.	Midday Meal	
3:01 to Midnight	Evening Meal	

- D. Reimbursement will be at state meal rates as published.

#### **Reimbursement for Receipted Lodging**

- A. The City adopts the state reimbursement for actual out-of-pocket lodging expenses, including room tax, up to the maximum amounts set by this policy, for in-state and out-of-state travel

- and changes those rates when the state amends their rates.
- B. The following costs are allowed for reimbursement. In order to claim lodging reimbursement, original receipts must be attached from a licensed lodging facility to city Travel expense voucher. Other receipts, such as credit card receipts, are not acceptable.
  - C. If an employee is traveling with their non-city-employee spouse, the lodging rate claimed must reflect only the rate for one person. The single-occupant rate should be noted and marked as such on the receipt.

#### **In-state Travel - Receipted Lodging**

- A. The maximum lodging reimbursement rate for in-state travel is not to exceed standard state lodging rate as published, unless lodging is in of the high cost areas. Current rates are to be obtained at the following website:  
<https://sfsd.mt.gov/SAB/EmployeeTravel>
- B. Exceptions, when lodging is secured at the convention or training site, the prevailing room rate for that site, will be paid by the city.

#### **Out-of-State Travel – Receipted Lodging**

The maximum lodging reimbursement rate for out-of-state travel is not to exceed the standard in-state lodging rate as obtained under the “In-state Travel – Receipted Lodging” section above unless the city is in a high cost area. The out of State high cost areas are available on the federal GSA website. If the city is not listed on this table but the county is, the lodging rate listed applies in the entire county. If neither the city nor the county in which the city is located are listed, then the standard rate should be used for that area. To find the GSA website go to: <https://sfsd.mt.gov/SAB/EmployeeTravel> Click on the “Federal Lodging Rate Guidelines” and select the state you will be visiting.

#### **Reimbursement for Non-Receipted Lodging**

It is the policy of the City of Miles City that it will not reimburse an employee in a non-receipted facility.  
Exceptions

In some instances; lodging is provided at no charge. In these instances, you can claim lodging expenses of \$12.00 per night. Examples include:

- A. Lodging is provided on campus for industry or government seminars;
- B. Lodging is included in the registration fee.
- C. Employee stays with family or friends.

#### **Use of City Credit Cards in Travel**


City credit cards will be used for fuel, meals and lodging purchases.

#### **Travel Advances**

- A. Travel advances are available by completing the Travel Advance Request and detailing the travel plans and costs.
- B. Total costs must be at least \$50.00
- C. The Travel advance form must be in to the City Clerk's office at least ten days before it is needed.

#### **Travel Voucher Process After Travel**

- A. A Travel Expense voucher will be completed and signed by the employee after travel ends.
- B. The voucher will be reviewed and approved by the Department Director or delegated authority.
- C. No more than two vouchers will be processed per month.
- D. Reimbursements due the city will accompany the voucher.

 <p style="text-align: center;"><b>CITY OF MILES CITY PERSONNEL POLICY</b></p>	Section 6:	Workplace Standards
	Effective:	
	Last Revised:	
<b>BREASTFEEDING IN THE WORKPLACE</b>		
<b>Resolution #</b>		

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

Women returning from maternity leave who wish to continue breastfeeding or separate expression of milk for their child(ren) will be provided a private space (other than a toilet stall) with suitable lighting and electricity if necessary for pumping apparatus. The selection of the space will be made on a case-by-case basis in consultation with the employee. Standard break times will be primarily utilized with additional unpaid break time provided as mutually agreed upon. Additionally, the city of Miles City will make every effort to provide suitable facilities for milk storage during the employee's daily work period. All requirements listed in MCA 39-2-215, 39-2-216, 39-2-217 will be complied with.



## **CITY OF MILES CITY PERSONNEL POLICY**

Section 5:

Leave  
Administration

Effective:

Last Revised:

### **PUBLIC OFFICE LEAVE**

**Resolution #**

- **This policy supersedes all previous policies and/or handbooks published by the City of Miles City. Negotiated labor contracts that conflict with this policy will take precedence to the applicable extent.**

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