

RESOLUTION NO. 4125

A RESOLUTION REVISING CITY OF MILES CITY PERSONNEL POLICIES REGARDING GRIEVANCE POLICY

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, 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 policy: Section 6, Grievance Policy attached as Exhibit "A"
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 13th DAY OF MARCH 2018.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk



EXHIBIT "A"
CITY OF MILES CITY
PERSONNEL POLICY

Section 6:	Workplace Standards
Effective:	10/25/2016
Last Revised:	03/13/2018

GRIEVANCE POLICY

Resolution #4125

- **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 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. If a claim is filed before the Montana Human Rights Bureau this claim against harassment ceases.
- B. Incidents that are alleged to be in violation of American with Disabilities Act (ADA) of 1990 must be reported using an ADA compliant resolution procedure. Otherwise, the employee shall proceed under this policy.

Definitions

- A. "Employee" means:
 - a. Any City employee except those covered by a collective bargaining agreement
 - b. Or an employee who has not completed a probationary period or a probationary period is extended and the employee has to attain permanent status;
 - c. 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.
- B. Contracts sets up obligations. "Grievance" means a complaint or dispute by an employee regarding the application or interpretation of written laws, rules, personnel policies or procedures, City codes and City ordinances, 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, City

codes and City ordinances, 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 City'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 an approved consistent with City policies relating to 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. Supervisor will document the reason for the grievance meeting and outcome of the discussion will be submitted to the Human Resource Officer and provided to the Mayor HR Committee and/or City Council as provided for below.
- B. Step II is the formal grievance, which shall be filed with the Mayor using the City's grievance form. A formal grievance:
 - a. shall be filed in writing within 15 calendar days from the occurrence of the grieved event. The formal grievance shall be filed with the Mayor.
 - b. shall state specifically the facts of the grievance, the law, written rule, policy, and/or procedure violated; when the action occurred, and the remedy desired by the grievant.
 - c. shall be responded to, by the Mayor, in writing within 15 calendar days from the date it is filed.
 - d. 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.
 - a. 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 the Mayor's response at Step II.
 - b. 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.
- D. As part of the final review of the Human Resource Committee may:
 - a. review the written grievance, review the Mayor's response, and/or review the record or report of any investigation;
 - b. authorize an additional investigation;
 - c. conduct a discussion with the grievant;
 - d. order a hearing before the Human Resource Committee; or
 - e. any combination of the above.
- E. Following the final Human Resource Committee review the Chairperson shall issue the final committee decision on the grievance either:
 - i. within 20 calendar days of completion of the final review;
 - ii. within 15 calendar days of receipt of a hearings summary, if applicable; or,

- iii. the Human Resource Committee chairperson shall notify the grievant and Mayor concerning any additional actions which could delay the decision and when the decision will be issued.
- F. The Human Resource Committee's final decision shall be issued in writing. This is the final step of this grievance procedure.

Hearing

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; which shall be scheduled no later than 60 days from date of issuance of termination or suspension letter.

- A. At the hearing both parties shall have:
 - a. the right to introduce evidence;
 - b. the right to cross examine;
 - c. the right to be represented; and,
 - d. the right to a recommendation for resolution based on the recorded evidence and matters officially noticed.
- B. The City shall pay all costs of:
 - a. physical arrangements for a hearing; and,
 - b. Mayor's witnesses and evidence.
- C. The grievant shall pay fees and expenses of:
 - a. the grievant representative; and,
 - b. the grievant witnesses and evidence, unless the witness also is a Mayor's witness.
- D. All witnesses will testify under oath. 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.
- E. The City Council will issue a final decision within 15 calendar days of the hearing, and the grievant shall be notified on the decision by letter from the Mayor.

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 the Mayor. The employee may not refile the grievance.
- B. If the 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.