



CITY OF MILES CITY

AGENDA

*Regular Council Meeting
City Council Chambers
and online at zoom.us*

*July 12, 2022
6:00 p.m.*

CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- | | |
|---------------------------------|------------|
| A. Regular City Council Meeting | 06/28/2022 |
| B. Human Resources Committee | 05/19/2022 |
| C. Public Safety Committee | 06/24/2022 |

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

- A. PUBLIC SAFETY COMMITTEE RECOMENDS NO U-TURN SIGNS IN ALL SCHOOL ZONES.

10. BID OPENINGS

11. BID AWARDS

12. PUBLIC HEARINGS

- A. ORDINANCE NO. 1357 (*Second Reading*) – AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF MILES CITY, MONTANA, REGARDING MUNICIPAL INFRACTIONS AND CRIMINAL PROVISIONS AND PENALTIES.

13. UNFINISHED BUSINESS

- A. ORDINANCE NO. 1357 (*Second Reading*) – AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF MILES CITY, MONTANA, REGARDING MUNICIPAL INFRACTIONS AND CRIMINAL PROVISIONS AND PENALTIES.

- B. CO-ED ADULT SOFTBALL REQUESTING ALCOHOL VARIANCE FOR

MULTIPLE DATES AT BENDER PARK.

14. NEW BUSINESS

- A. RESOLUTION NO. 4463 – A RESOLUTION ADOPTING THE “MODEL GOVERNMENT SOCIAL MEDIA TERMS AND CONDITIONS FOR USERS” PERTAINING TO CITY OF MILES CITY SOCIAL MEDIA ACCOUNTS.**
- B. RESOLUTION NO. 4464 - A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN AGREEMENT WITH THE MONTANA DEPARTMENT OF TRANSPORTATION FOR STREET SWEEPING FOR FISCAL YEAR 2022-2023.**
- C. RESOLUTION NO. 4465 - A RESOLUTION APPROVING A REVISED COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MILES CITY AND THE LOCAL NO. 283-A UNION.**
- D. RESOLUTION NO. 4466 - A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF TRUSTEES**
- E. LEASE EXTENSION FOR RAYMOND AND PEGGY JERREL LOCATED AT TRACT E, LOTS 13, 22, AND 23.**

15. ADJOURNMENT

Public comment on any public matter that is not on the agenda of this meeting can be presented under Request of Citizens, provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings

Minutes

REGULAR COUNCIL MEETING June 28, 2022
6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, June 28, 2022, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor John Hollowell called the meeting to order. Council Members present were Rick Huber, Chris Grenz, Kathy Wilcox, Roxanna Brush, Brant Kassner and Dwayne Andrews. Council Members Stacy Broell and Ken Gardner were not present.

Also present were City Attorney Dan Rice, Fire Chief Branden Stevens, Police Captain Dan Baker, RSVP Director Cindy Erickson, Public Utilities Director Tom Speelmon, and Deputy City Clerk/Minute Recorder Jody Kinsey.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 6/14/2022

** *Councilperson Grenz moved to approve the minutes of the Regular Council Meeting of June 14th, 2022, subject to any changes, and seconded by Councilperson Kassner. The motion **passed** by unanimous consent, 6-0.*

SCHEDULE MEETINGS

None

REQUEST OF CITIZENS & PUBLIC COMMENT

Ryan & Ciara Duncan, 1216 N Lake, asked for a stop sign at the intersection of North Lake and Riverside. They mentioned that it is a very dangerous intersection with lots of kids in the area. Roxanna Brush noted that there are already two yield signs in that location. The request was referred to the Public Safety Committee.

APPOINTMENTS

Library Board-

Nancy Larsen

Linda Christiansen

Shirley Lund

Kim Feil

Bert Pezzarossi

*** Councilperson Grenz moved to appoint all members to the Library Board, seconded by Councilperson Andrews. The motion **passed** by unanimous consent, 6-0.*

PROCLAMATIONS

None

STAFF REPORTS

Chief Stevens let the Council know that fire department staff have suffered health problems from the exposure to high levels of carbon monoxide. City Mechanic Dan Decker and Fire Captain Tanner Harbaugh are on their way back to Miles City with the new ladder truck.

Director Speelmon said his crew is finishing up sewer cleanouts. They have been doing lots of locates for Montana Dakota Utilities (MDU) and they have found some issues that they were not aware of because of the work that MDU is doing. They will be working on removing a double water line on North 5th street. When the old line was abandoned it was never removed. There will be an adjustment to the water bills. The reading dates will now be from the beginning of the month to the end of the month. This is a change from the current middle of the month to the middle of the next month readings. Councilperson Huber asked about summer discounts for water bills. Summer discount will begin in the month of July.

CITY COUNCIL COMMENTS

Councilperson Wilcox brought a handout for the Council members about the duties, powers, and authorities of Council members. She mentioned that there had been questions in the past about directors presenting monthly reports to the Council. The only department that needs to present a report to Council is the Finance Department and that is only every six months. She added that the Mayor can appoint a special committee or person to share information with the public. Council agreed that they don't want a special committee for the Fire Department project.

Councilperson Grenz suggested a website where people could post questions and someone could post the answer. The people are not likely to read through a lot of paperwork to get to the answers they are looking for. He questioned what will happen if the Fire Department does go on the ballot and fails. With the current housing market, he is not sure how much the people can take. He believes we need a plan B and C if it doesn't pass. If it fails he would like to know what we can do with the \$1.6 million that we received.

Councilperson Huber noted that the open houses for the Fire Department were posted in the newspaper and on Facebook and very few people showed up.

Councilperson Andrews told the Council that they have a public information plan for informing the citizens about the Fire Department. When the planning gets to a point where input from the community is needed they will get the information out to the public.

Councilperson Grenz stated that we know what the Fire Department needs but not what all is included in the new building. He wanted to know if there is an elevator and a commercial kitchen. The mayor informed him that all the specifics of the building are detailed in the Preliminary Architecture Report (PAR). Chief Stevens stated that they are working tirelessly to find funding. If all current avenues for funding are achieved they are looking at \$1.6 million or less to go on a ballot. They won't give up looking for resources and they won't stop providing service to the community. A volunteer Fire Department is not possible. They cannot provide the same response time. He is in the process of working with U.S. Bank on some pretty promising things.

Councilperson Huber suggested that we notice online that all Council meetings will include a report on the Fire Hall.

Councilperson Brush is concerned about the carbon monoxide and would like to know what we can do to help them. Chief Stevens noted that they leave the doors open a lot when the weather is nice.

Councilperson Huber stated that the exhaust system needs to get in the building now. It is budget season and they can't wait for a new building to fix the problem.

MAYOR COMMENTS

None

COMMITTEE RECOMMENDATIONS

None

BID OPENINGS

None

BID AWARDS

None

PUBLIC HEARINGS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- A. **ORDINANCE NO. 1357 (*First Reading*) – AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF MILES CITY, MONTANA, REGARDING MUNICIPAL INFRACTIONS AND CRIMINAL PROVISIONS AND PENALTIES.**

****** *Councilperson Kassner moved to accept the Ordinance read by title only, seconded by Councilperson Huber. The motion **passed**, 5-1 with Councilperson Grenz voting against.*

Councilperson Brush pointed out a spelling error on page 4.

B. RESOLUTION NO. 4462 – A RESOLUTION APPROVING A FIREWORKS DISPLAY ON JULY 6, 2022, AT CONNOR’S STADIUM.

****** *Councilperson Wilcox moved to accept the Resolution, seconded by Councilperson Brush.*

****** *Councilperson Andrews moved to amend the Resolution to state that it is approved contingent on the organization providing insurance coverage that includes coverage for fireworks, seconded by Councilperson Huber and passed unanimously.*

****** *On roll call vote the amended main motion **passed**, 6-0.*

C. APPROVE MEMORANDUM OF UNDERSTANDING WITH RETIRED SENIOR VOLUNTEER PROGRAM (RSVP).

****** *Councilperson Brush moved to accept the agreement, seconded by Councilperson Andrews. The motion **passed** unanimously, 6-0.*

D. CO-ED ADULT SOFTBALL REQUESTING ALCOHOL VARIANCE FOR MULTIPLE DATES AT BENDER PARK.

****** *Councilperson Grenz moved to approve the Alcohol variance, seconded by Councilperson Andrews. The motion **failed** 1-5, with Councilperson Andrews voting in favor.*

E. LEASE EXTENSION FOR HUGO MUGGLI, INC LOCATED AT TRACT E, LOTS 1 & W ½ OF 2.

****** *Councilperson Grenz moved to approve the extension, seconded by Councilperson Kassner.*

****** *Councilperson Wilcox moved to amend the agreement to extend the lease by six months and charge an adjusted six-month rate to allow for further research, seconded by Councilperson Andrews, and **passed** unanimously.*

****** *The amended main motion **passed** unanimously, 6-0.*

F. LEASE EXTENSION FOR TODD AND ELIZABETH NEIFFER

LOCATED AT TRACT E, LOTS 6-7.

** *Councilperson Grenz moved to approve the extension, seconded by Councilperson Huber.*

** *Councilperson Wilcox moved to amend the agreement to extend the lease by six months and charge an adjusted six-month rate to allow for further research, seconded by Councilperson Brush and **passed** unanimously.*

** *The amended main motion **passed** unanimously, 6-0.*

ADJOURNMENT

** *Councilperson Wilcox moved to adjourn the meeting, seconded by Councilperson Brush and passed unanimously.*

The meeting was adjourned at 7:42 p.m.

John Hollowell, Mayor

Jody Kinsey, Deputy City Clerk

Human Resources Committee
May 19, 2022

The **Human Resources Committee** met Thursday, May 19, 2022 at 4:15 p.m. at City Hall Conference Room. Present were Committee Members Kathy Wilcox, Stacy Broell, Rick Huber and Dwayne Andrews. Also present were: Public Works Director Scott Gray and Human Resources Officer/Recorder Linda Wilkins.

Chairperson Wilcox called the meeting to order.

1. Request of Citizens
None
2. Committee Member Comments
None
3. Review & recommend: Seasonal staff, competitive wage for Summer 2022

Chairperson Wilcox asked Director Gray to explain the current issue with summer wages. Director Gray explained to the committee that it has been difficult to get summer help, the starting wage for a seasonal laborer is \$11/hour and starting swimming pool lifeguards is \$10/hour. Employers at some fast food businesses are paying \$15/hour. He thought it would be good to raise the wage to for summer seasonal help to \$14-\$15/hour.

***Committee Member Andrews moved pay swimming pool returning guards \$15/hour and new guards \$14/hour and the same wages for seasonal laborers, seconded by Committee Member Wilcox. On roll call vote, the motion passed unanimously 4-0.*

4. Next Meeting: Tues, June---, 2022: 4:15 p.m.

Not scheduled
5. Adjournment

***Committee Member Andrews moved to adjourn, seconded by Committee Member Huber. The motion passed unanimously 4-0.*

The meeting was adjourned at 4:28 p.m.

Respectfully submitted,

Chairperson Kathy Wilcox

Recorder Linda Wilkins

Public Safety Committee Meeting
June 24, 2022

The Public Safety Committee met Friday, June 24, 2022, at 11:00 am via live attendance and Zoom Conferencing in the City Hall Conference Room, 17 S. 8th. Present were Committee Members Roxanna Brush, Kathy Wilcox, and Ken Gardner. Absent was: Committee Member Chris Grenz. Also present were: Police Chief Doug Colombik, Police Det/Lt Spencer Anderson, City Shop Foreman Dan Decker, Fire Chief Branden Stevens, Local 600 President Casey Miller, Fire Captain Eddy Kanduch, Councilperson Rick Huber, Citizens Don Neese and Mark Ingraham and HR Officer/Recorder Linda Wilkins.

Chairperson Brush called the meeting to order.

1. Request of Citizens

None

2. Staff Comments

None

3. Committee Member Comments

Committee Member Wilcox asked Chief Colombik for an updated on the stop sign placed at the corner of Leighton Blvd and N Strevell Ave. Chief Colombik stated there have been a lot of citation issued for failure to stop, he thought a flashing red light would be helpful to prevent accidents.

4. Discussion Police Department Building

Chief Colombik updated the committee on the following:

1. Brick work has been completed
2. Bids for concrete work, graveling or paving the parking lot and painting of front need to be obtained
3. Weeds need to be taken care of -- he will follow-up with Director Gray to see if the some of his employees can help.
4. A phone for the outside of the building needs to be installed. The phone from the VA building could probably moved to the new building.

There should be a savings to the budget of approximately \$36k.

5. Discussion Fire Hall Building

The open houses at the Fire Department were not well 10 people from the community came and toured the Fire Hall. There was discussion on the structural unsoundness of the building. There has been concern in the community over the cost of construction. It was explained the Chief Stevens has been working on obtaining funding through federal government grants and loan and researching any other funding sources available, the entire cost of the construction would not be done through a mil levy, final funding is currently being worked on and until final figures are determined an amount for a mil levy can not be established at this point in time. Any one is free to contact Chief Stevens to see plans or how funding is progressing.

6. Discussion on Police Vehicle status and replacement.

Chief Colombik provided a fleet status report and the cars are a disaster. Foreman Decker explained that most of the vehicles in the police department are needing to be replaced and if you start out with a used vehicle you are

already starting out with a worn-out vehicle. He has been looking at the cost of hybrid vs gas vehicles, gas vehicles are about \$36k and hybrid are around \$42k. Det/Lt Anderson explained that vehicles are being run 24/7 and there are not enough vehicles to go around should a vehicle breakdown. It would be good to consider have a yearly rotation of vehicles, but first the fleet has to be replaced before a rotation can begin. The goal would be to have the oldest vehicle in the fleet to be 5 years old. Committee Member Wilcox suggested that the remaining funds from the building construction be allocated to a police vehicle.

Committee Member Wilcox moved to recommend to the finance committee re-appropriating the balance of the building fund to the purchase of a new police vehicle, seconded by Committee Member Brush. The motion passed unanimously 3-0.

7. Discussion and recommendation on U-Turns in school zones.

Committee Member Gardner expressed his concern over the danger to children of performing U-turns in school zones. Chief Colombik was not opposed, should get Attorney Rice to work on an ordinance.

***Committee Member Gardner moved to recommend to council no U-turn signs in all school zones, seconded by Committee Member Wilcox. The motion passed unanimously 3-0.*

8. Adjournment

***Committee Member Gardner moved to adjourn the meeting, seconded by Committee Member Wilcox and passed unanimously, 3-0.*

The meeting was adjourned at 12:24 p.m.

Chairperson Roxanna Brush

Recorder Linda Wilkins

Public Hearing
&
Unfinished Business

ORDINANCE NO. 1357

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF MILES CITY, MONTANA, REGARDING MUNICIPAL INFRACTIONS AND CRIMINAL PROVISIONS AND PENALTIES.

WHEREAS, the Code of Ordinances of Miles City, Montana, includes a variety of criminal offenses which the City deems inappropriate to be charged as city code violations; and

WHEREAS, the Code of Ordinances of Miles City, Montana, includes general criminal penalties which are more appropriately punished as Municipal Infractions as authorized by MCA 7-4-4150; therefore

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. The following city code provisions are hereby amended to read as indicated below, with strike through font indicating deletion:

Chapter 1 – GENERAL PROVISIONS

Sec. 1-11. - General penalty.

(a)Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in the Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a ~~fine not to exceed \$500.00. Each day any violation of any provision of this Code or of any ordinance shall continue, it shall constitute a separate offense.~~(b)~~In addition to the penalty provided in subsection (a) of this section, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be abated by the city as provided by law, and each day that such condition continues shall be regarded as a new and separate offense. civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.~~

Chapter 3 – ALCOHOLIC BEVERAGES

Sec. 3-27. - Penalty for violation of article.

~~(a) Except as otherwise specified, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this article shall constitute a separate offense.~~

Unless otherwise specifically provided, any person violating any provision of this chapter is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction.

For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.

A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 4 – ANIMALS

Sec. 4-1. - Penalty for violation of chapter.

~~Except as otherwise specified, any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

Unless otherwise specifically provided, any person violating any provision of this chapter is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction.

For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.

A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 5 – BUILDS AND BUILDING REGULATIONS

Sec. 5-3. - Penalty for violation of chapter.

Unless otherwise specified by the provisions of this chapter, any person who violates the provisions of this chapter ~~shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~ Each day that a violation exists shall be deemed a distinct and ~~separate offense.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 6 – BUSINESS AND BUSINESS REGULATIONS

ARTICLE III. – ALARM SYSTEMS

Sec. 6-59. - Penalty for violation of article.

Any person violating any section of this article ~~shall be guilty of a misdemeanor, and jurisdiction for such violations shall be in the city court.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

ARTICLE IV. - AMBULANCES

Sec. 6-88. - Penalty for violation of article.

Any person violating any provision of this article ~~shall be guilty of a misdemeanor and shall be prosecuted and punished in accordance with state law.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

ARTICLE V. – AMUSEMENTS

Sec. 6-111. – Penalty for Violation of Article.

(a) Any person who violates the provisions of this article is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a

first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

~~Sec. 6-133. — Penalty for violation of division. —~~

~~(a) Any person who violates the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this division shall constitute a separate offense.~~

~~Sec. 6-158. — Penalty for violation of division. —~~

~~(a) Any person who violates the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this division shall constitute a separate offense.~~

ARTICLE VI. — HOME OCCUPATIONS.

Sec. 6-247. - Penalty for violation of article.

~~Violation of this article shall be a misdemeanor, and each day of violation shall constitute a separate offense. The fine for such violation shall be \$5.00 per day for each day. If violations exist for more than 30 days, they shall be deemed a public nuisance.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

ARTICLE VII. — HOTELS AND MOTELS

Sec. 6-266. - Penalty for violation of article.

~~Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any

portion of which any violation of this code is committed, continued, or permitted to be committed.

ARTICLE VIII. – PAWNBROKERS, JUNK DEALERS AND DEALERS IN SECOND HAND GOODS.

Sec. 6-292. - Penalty for violation of article.

(a)Any person who violates the provisions of this article ~~shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~(b)Each day of failure to comply with the provisions of this article ~~shall constitute a separate offense.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 16 – MUNICIPAL INFRACTIONS

ARTICLE I. - IN GENERAL

Sec. 16-1. - Penalty for violation of chapter.

Unless otherwise specifically provided, any person violating any provision of this chapter is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction.

For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.

A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

REPEAL Sections 16-2 through 16-46; 16-50

~~Sec. 16-2. – Assault.—~~

~~A person commits the offense of assault if he:~~

(1) Purposely or knowingly causes bodily injury to another; (2) Negligently causes bodily injury to another with a weapon; (3) Purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or (4) Purposely or knowingly causes reasonable apprehension of bodily injury to another. The purpose to cause reasonable apprehension or the knowledge that reasonable apprehension would be caused shall be presumed in any case in which a person knowingly points a firearm at or in the direction of another, whether or not the offender believes the firearm to be loaded.
(Code 1981, § 9.02.010)

State Law reference—Assault, MCA 45-4-201.

Sec. 16-3.—Sexual assault.—

(a) A person who knowingly subjects another, not his spouse, to any sexual contact without consent commits the offense of sexual assault. (b) An act in the course of committing sexual assault shall include an attempt to commit the offense or flight after the attempt or commission.

(Code 1981, § 9.02.020)

State Law reference—Sexual assault, MCA 45-5-502.

Sec. 16-4.—Indecent exposure.—

A person who, for the purpose of arousing or gratifying the sexual desire of such person or of any person other than a spouse, exposes his or her genitals under circumstances in which the person knows such conduct is likely to cause affront or alarm commits the offense of indecent exposure.

(Code 1981, § 9.02.030)

State Law reference—Indecent exposure, MCA 45-5-504.

Sec. 16-5.—Prostitution.—

A person commits the offense of prostitution if such person:

(1) Engages in or agrees or offers to engage in sexual intercourse with another person for compensation; or (2) Loiters in or within view of any public place for the purpose of being hired to engage in sexual intercourse.

(Code 1981, § 9.02.040)

State Law reference—Prostitution, MCA 45-5-601.

Sec. 16-6.—Promoting prostitution.—

(a) A person commits the offense of promoting prostitution if such person purposely or knowingly commits any of the following acts: (1) Owns, controls, manages, supervises, resides in or otherwise keeps, alone or in association with others, a house of prostitution or a prostitution business; (2) Procures an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate; (3) Encourages, induces or otherwise purposely causes another to become or remain a prostitute; (4) Solicits a person to patronize a prostitute; (5) Procures a prostitute for a patron; (6) Transports a person into or within this state with the purpose to promote that person's engaging in prostitution, or procures or pays for transportation with that purpose; (7) Leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution, or fails to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities or using other legally available means; or (8) Lives, in whole or in part, upon the earnings of a person engaging in prostitution, unless the person is the prostitute's minor child or other legal dependent incapable of self-support. (b) On the issue of whether a place is a house of prostitution, the following, in addition to all other admissible evidence, shall be admissible: its general repute; the repute of the persons who reside in or frequent the place; or the frequency, timing and duration of the visits by nonresidents. Testimony of a person against a spouse shall be admissible under this action. (Code 1981, § 9.02.050)

State Law reference—Promoting prostitution, MCA 45-5-602.

Sec. 16-7.—Unlawful transactions with children.—

A person commits the offense of unlawful transactions with children if such person knowingly:

(1) Sells or gives explosives to a child under the age of majority, except as authorized under appropriate city ordinances; or (2) Sells or gives intoxicating substances to a child under the age of majority.

(Code 1981, § 9.02.060)

Cross reference—Sale of alcoholic beverages to minors, § 3-59; fireworks, § 16-48.

State Law reference—Unlawful transactions with children, MCA 45-5-623.

Sec. 16-8.—Criminal mischief.—

A person commits the offense of criminal mischief if such person knowingly or purposely:

(1) Injures, damages or destroys any property of another without consent; (2) Without consent, tampers with the property of another or public property so as to endanger or interfere with persons or property or its use; or (3) Damages or destroys property with the purpose to defraud an insurer.

(Code 1981, § 9.02.070)

Cross reference—~~Damaging or tampering with wastewater facilities, § 23-57.~~

State Law reference—~~Criminal mischief, MCA 45-6-101.~~

~~Sec. 16-9.— Negligent arson.—~~

~~A person commits the offense of negligent arson if such person purposely or knowingly starts a fire or causes an explosion, whether on such person's own property or property of another, and thereby negligently:~~

~~(1)Places another person in danger of death or bodily injury; or(2)Places property of another in danger of damage or destruction.~~

~~(Code 1981, § 9.02.080)~~

~~Cross reference— Causing fire by careless smoking, § 15-10.~~

~~State Law reference— Negligent arson, MCA 45-6-102.~~

~~Sec. 16-10.— Criminal trespass to vehicles.—~~

~~A person commits the offense of criminal trespass to vehicles when such person purposely or knowingly and without authority enters any vehicle or any part thereof.~~

~~(Code 1981, § 9.02.090)~~

~~Cross reference— Unauthorized use of motor vehicle, § 16-16.~~

~~State Law reference— Criminal trespass to vehicles, MCA 45-6-202.~~

~~Sec. 16-11.— Criminal trespass to property.—~~

~~A person commits the offense of criminal trespass to property if such person knowingly:~~

~~(1)Enters or remains unlawfully in an occupied structure; or(2)Enters or remains unlawfully in or upon the premises of another.~~

~~(Code 1981, § 9.02.100)~~

~~State Law reference— Criminal trespass to property, MCA 45-6-203.~~

~~Sec. 16-12.— Possession of burglary tools.—~~

~~A person commits the offense of possession of burglary tools when such person knowingly possesses any key, tool, instrument, device or explosive suitable for breaking into an occupied~~

~~structure or vehicle or any depository designed for the safekeeping of property, or any part thereof, with the purpose to commit an offense therewith.~~

~~(Code 1981, § 9.02.110)~~

~~State Law reference—Possession of burglary tools, MCA 45-6-205.~~

~~Sec. 16-13.—Theft generally.—~~

~~(a)A person commits the offense of theft when he:(1)Purposely or knowingly obtains or exerts unauthorized control over property of the owner;(2)Purposely or knowingly obtains by threat or deception control over property of the owner;(3)Purposely or knowingly obtains control over stolen property, knowing the property to have been stolen by another;(4)Has the purpose of depriving the owner of the property;(5)Purposely or knowingly uses, conceals or abandons the property in such manner as to deprive the owner of the property; or(6)Purposely or knowingly uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner of the property.(b)A person convicted of the offense of theft of property under this section not exceeding \$150.00 in value shall be fined not to exceed \$500.00 or be imprisoned in jail for any term not to exceed six months, or both.~~

~~(Code 1981, § 9.02.120)~~

~~State Law reference—Theft, MCA 45-6-301.~~

~~Sec. 16-14.—Theft of lost or mislaid property.——~~

~~A person who obtains control over lost or mislaid property commits the offense of theft when such person:~~

~~(1)Knows or learns the identity of the owner, or knows or is aware of or learns of a reasonable method of identifying the owner;(2)Fails to take reasonable measures to restore the property to the owner; and(3)Has the purpose of depriving the owner permanently of the use or benefit of the property.~~

~~(Code 1981, § 9.02.130)~~

~~State Law reference—Theft of lost or mislaid property, MCA 45-6-302.~~

~~Sec. 16-15.—Theft of labor or services or use of property.—~~

~~A person commits the offense of theft when such person obtains the temporary use of property, labor or service of another which is available only for hire by means of threat or deception, or knowing that such use is without the consent of the person providing the property, labor or services.~~

~~(Code 1981, § 9.02.140)~~

State Law reference—Theft of labor or services or use of property, MCA 45-6-305.

Sec. 16-16.—Unauthorized use of motor vehicle.—

(a) A person commits the offense of unauthorized use of motor vehicles if such person knowingly operates the automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle of another without his consent. (b) It is an affirmative defense that the offender reasonably believed that the owner would have consented to the operation had such owner known of it.

(Code 1981, § 9.02.150)

Cross reference—Criminal trespass to vehicles, § 16-10.

State Law reference—Unauthorized use of motor vehicle, MCA 45-6-308.

Sec. 16-17.—Deceptive practices generally.—

A person commits the offense of deceptive practices when such person purposely or knowingly:

(1) Causes another, by deception or threat, to execute a document by which a pecuniary obligation is incurred; (2) Makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services; (3) Makes or directs another person to make or knowingly accepts a false or deceptive statement to any person respecting his financial condition for the purpose of procuring a loan or credit; or (4) Obtains or attempts to obtain property, labor or services by any of the following means: a. Using a credit card which was issued to another, without the other's consent. b. Using a credit card that has been revoked or cancelled. c. Using a credit card that has been falsely made, counterfeited or altered in any material respect. d. Using the pretended number or description of a fictitious credit card. e. Using a credit card which has expired, provided that the credit card clearly indicates the expiration date.

(Code 1981, § 9.02.160)

State Law reference—Deceptive practices, MCA 45-6-317.

Sec. 16-18.—Deceptive business practices.—

(a) A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation or profession such person purposely or knowingly: (1) Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; (2) Sells, offers or exposes for sale or delivers less than the represented quantity of any commodity or service; (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnished the weight or measure; (4) Sells, offers or exposes for sale adulterated commodities; (5) Sells, offers or exposes for sale mislabeled commodities; or (6) Makes a deceptive statement regarding the

quantity or price of goods in any advertisement addressed to the public.(b)For purposes of this section:(1)Adulterated means varying from the standard of composition or quality prescribed by state law or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.(2)Mislabeled means:a.Varying from the standard truth or disclosure in labeling prescribed by state law or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; orb.Represented as being another person's produce, though otherwise labeled accurately as to quality or quantity.
(Code 1981, § 9.02.170)

State Law reference—Deceptive business practices, MCA 45-6-318.

~~Sec. 16-19.— Issuing bad checks.—~~

~~(a)A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property, labor or services of another, such person issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository.(b)If the offender has an account with the depository, failure to make good the check or other order within five days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.
(Code 1981, § 9.02.180)~~

State Law reference—Issuing bad check, MCA 45-6-316.

~~Sec. 16-20.— Forgery.~~

~~(a)A person commits the offense of forgery when, with purpose to defraud, such person knowingly:(1)Without authority makes or alters any document or other object apparently capable of being used to defraud another in such manner that it purports to have been made by another or at another time, or with different provisions or of different composition;(2)Issues or delivers such document or other object, knowing it to have been thus altered;(3)Possesses with the purpose of issuing or delivering any such document or other object, knowing it to have been thus made or altered; or(4)Possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed for use in counterfeiting or otherwise forging written instruments.(b)A purpose to defraud means that the purpose of causing another to assume, create, transfer, alter or terminate any right, obligation or power with reference to any person or property.(c)A document or other object capable of being used to defraud includes, but is not limited to, one by which any right, obligation or power with reference to any person or property may be created, transferred, altered or terminated.
(Code 1981, § 9.02.190)~~

State Law reference—Forgery, MCA 45-6-325.

~~Sec. 16-21.— Obscuring identity of machine.~~

A person commits the offense of obscuring the identity of a machine if such person:

(1) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any machine, vehicle or electrical device with the purpose to conceal, misrepresent or transfer any such machine, vehicle or electrical device; or (2) Possesses with the purpose to conceal, misrepresent or transfer any such machine, vehicle or device, knowing that such serial number or other identification number or mark has been removed or otherwise obscured.

(Code 1981, § 9.02.200)

State Law reference—Obscuring the identity of a machine, MCA 45-6-326.

Sec. 16-22.—Defrauding creditors.—

A person commits the offense of defrauding creditors if he destroys, conceals, encumbers, transfers, removes from the state or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest. The term "security interest" means an interest in personal property or fixtures as defined in the Uniform Commercial Code of the state statutes.

(Code 1981, § 9.02.210)

State Law reference—Defrauding creditors, MCA 45-6-315.

Sec. 16-23.—Threats and other improper influence in official and political proceedings.—

A person commits an offense under this section if such person purposely or knowingly:

(1) Threatens unlawful harm to any person with the purpose of influencing the decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter of such person; (2) Threatens harm to any public servant with the purpose to influence the decision, opinion, recommendation, vote or other exercise of discretion in a judicial or administrative proceeding of such public servant; (3) Threatens harm to any public servant or party official with the purpose to influence such public servant or party official to violate his duty; (4) Privately addresses to any public servant who has or will have an official discretion in a judicial or administrative proceeding any representation, entreaty, argument or other communication designed to influence the outcome on the basis of considerations other than those authorized by law. It is no defense to prosecution under this section that a person whom the offender sought to influence was not qualified to act in the desired way, whether because such person had not yet assumed office, or lacked jurisdiction or for any other reason; or (5) As a juror, or officer in charge of a jury, receives or permits to be received any communication relating to any matter pending before such jury, except according to the regular course of proceedings.

(Code 1981, § 9.02.220)

State Law reference—Threats and other improper influence in official and political matters, MCA 45-7-102.

Sec. 16-24.—Accepting compensation for past actions as public servant.—

A person commits an offense under this section if such person knowingly solicits or accepts or agrees to accept any pecuniary benefit as compensation for having, as a public servant, given a decision, opinion, recommendation or vote favorable to another, or for having violated his duty. A person commits an offense under this section if such person knowingly offers, confers or agrees to confer compensation, acceptance of which is prohibited by this section.

(Code 1981, § 9.02.230)

State Law reference—Compensation for past official behavior, MCA 45-7-103.

Sec. 16-25.—Gifts to public servants by persons subject to their jurisdiction.—

(a) No public servant in any department or agency exercising regulatory function, conducting inspections or investigations, carrying on a civil or criminal litigation on behalf of the government, or having custody of prisoners shall solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation or custody, or against whom such litigation is known to be pending or contemplated. (b) No public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the government shall solicit, accept or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction. (c) No public servant having judicial or administrative authority and no public servant employed by or in a court or other tribunal having such authority or participating in the enforcement of its decision, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or tribunal with which he is associated. (d) No legislator or public servant employed by the legislature or by any committee or agency thereof shall solicit, accept or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the legislature or any committee or agency thereof. (e) This section shall not apply to: (1) Fees prescribed by law to be received by a public servant, or any other benefit for which the recipient gives legitimate consideration or to which such recipient is otherwise entitled; or (2) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality. (f) No person shall knowingly confer or offer or agree to confer any benefit prohibited by this section.

(Code 1981, § 9.02.240)

State Law reference—Gifts to public servants by persons subject to their jurisdiction, MCA 45-7-104.

~~Sec. 16-26.—False swearing.—~~

~~A person commits the offense of false swearing if such person knowingly makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made when such person does not believe the statement to be true, and:~~

~~(1)The falsification occurs in an official proceeding;(2)The falsification is purposely made to mislead a public servant in performing his official function; or(3)The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.~~

~~(Code 1981, § 9.02.250)~~

State Law reference—False statements, MCA 45-7-202.

~~Sec. 16-27.—Unsworn falsification to authorities.—~~

~~A person commits an offense under this section if, with purpose to mislead a public servant in performing his official function, he:~~

~~(1)Makes any written false statement which he does not believe to be true;(2)Purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading;(3)Submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity; or(4)Submits or invites reliance on any sample, specimen, map, boundary mark or other object which he knows to be false.~~

~~(Code 1981, § 9.02.260)~~

State Law reference—Unsworn falsification to authorities, MCA 45-7-203.

~~Sec. 16-28.—False alarms to agencies of public safety. —~~

~~A person commits an offense under this section if such person knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, which deals with emergencies involving danger to life or property.~~

~~(Code 1981, § 9.02.270)~~

State Law reference—False alarms to agencies of public safety, MCA 45-7-204.

~~Sec. 16-29.—False reports to law enforcement authorities.—~~

~~A person commits an offense under this section if such person knowingly:~~

(1) Gives false information to any law enforcement officer with the purpose to implicate another; (2) Reports to law enforcement authorities an offense or other incident within their concern, knowing that it did not occur; or (3) Pretends to furnish such authorities with information relating to an offense or incident when such person knows he has no information relating to such offense or incident.

(Code 1981, § 9.02.280)

State Law reference—False reports to law enforcement authorities, MCA 45-7-205.

Sec. 16-30.— Impersonating public servant.—

A person commits the offense of impersonating a public servant if such person falsely pretends to hold a position in the public service with the purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(Code 1981, § 9.02.290)

State Law reference—Impersonating a public servant, MCA 45-7-209.

Sec. 16-31.— Resisting arrest.—

(a) A person commits the offense of resisting arrest if such person knowingly prevents or attempts to prevent a police officer from effecting an arrest by: (1) Using or threatening to use physical force or violence against the police officer or another; or (2) Using any other means which creates a risk of causing physical injury to the police officer or another. (b) It is no defense to a prosecution under this section that the arrest was unlawful, provided the police officer was acting under color of official authority.

(Code 1981, § 9.02.300)

State Law reference—Resisting arrest, MCA 45-7-301.

Sec. 16-32.— Obstructing police officer or other public servant.—

(a) A person commits the offense of obstructing a police officer or public servant if such person knowingly obstructs, impairs or hinders the enforcement of the criminal law, the preservation of the peace or the performance of a governmental function. (b) It is no defense to prosecution under this section that the police officer was acting in an illegal manner, provided the police officer was acting under color of official authority.

(Code 1981, § 9.02.310)

State Law reference—Obstructing a peace officer or other public servant, MCA 45-7-302.

Sec. 16-33.— Obstructing justice.—

(a) A person commits the offense of obstructing justice if, knowing a person is an offender, he purposely: (1) Harbors or conceals an offender; (2) Warns an offender of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring an offender into compliance with the law; (3) Provides an offender with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; (4) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of an offender; (5) Suppresses by act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of an offender; or (6) Aids an offender who is subject to official detention to escape from such official detention. (b) For the purpose of this section, offender means a person who has been or is liable to be arrested, charged, convicted or punished for a public offense.

(Code 1981, § 9.02.320)

State Law reference—Obstructing justice, MCA 45-7-303.

Sec. 16-34.—Failure to aid police officer.—

Where it is reasonable for a police officer to enlist the cooperation of a person in:

(1) Effectuating or securing an arrest of another; or (2) Preventing the commission by another of an offense;

a police officer may order such person to cooperate. A person commits the offense of failure to aid a police officer if such person knowingly refuses to obey such an order.

(Code 1981, § 9.02.330)

State Law reference—Failure to aid a peace officer, MCA 45-7-304.

Sec. 16-35.—Compounding a felony.—

A person commits the offense of compounding a felony if such person knowingly accepts or agrees to accept any pecuniary benefit in consideration for:

(1) Refraining from seeking prosecution of a felony; or (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony.

(Code 1981, § 9.02.340)

State Law reference—Compounding a felony, MCA 45-7-305.

Sec. 16-36.—Bail jumping.—

(a) A person commits the offense of bail jumping if, having been set at liberty by court order, with or without security, upon condition that such person will subsequently appear at a

specified time and place, he purposely fails without excuse to appear at that time and place.(b)This section shall not interfere with the exercise by any court of its power to punish for contempt.(c)This section shall not apply to a person set at liberty by court order upon condition that such person will appear in connection with a charge of having committed a misdemeanor, except it shall apply where the judge has released the defendant on his own recognizance.

(Code 1981, § 9.02.350)

State Law reference—Bail jumping, MCA 45-7-308.

Sec. 16-37.—Criminal contempt.—

A person commits the offense of criminal contempt when such person knowingly engages in any of the following conduct:

(1)Disorderly, contemptuous or insolent behavior committed during the sitting of a court, in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;(2)Breach of the peace, noise or other disturbance directly tending to interrupt a court's proceeding;(3)Purposely disobeying or refusing any lawful process or other mandate of a court;(4)Unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory;(5)Purposely publishing a false or grossly inaccurate report of a court's proceeding; or(6)Purposely failing to obey any mandate, process or notice relative to juries, issued pursuant to state statutes.

(Code 1981, § 9.02.360)

Cross reference—Court, ch. 8.

State Law reference—Criminal contempt, MCA 45-7-309.

Sec. 16-39.—Failure of disorderly persons to disperse.—

(a)Where two or more persons are engaged in disorderly conduct, a police officer, judge or mayor may order the participants to disperse. A person who purposely refuses or knowingly fails to obey such an order commits the offense of failure to disperse.(b)A person convicted of the offense of failure to disperse shall be fined not to exceed \$100.00 or be imprisoned in jail for a term not to exceed ten days, or both.

(Code 1981, § 9.02.380)

State Law reference—Failure of disorderly persons to disperse, MCA 45-8-102.

Sec. 16-40.—Riot.—

A person commits the offense of riot if such person purposely and knowingly disturbs the peace by engaging in an act of violence or threat to commit an act of violence as part of an

assemblage of five or more persons, which act or threat presents a clear and present danger of, or results in, damage to property or injury to persons.

(Code 1981, § 9.02.390)

State Law reference—Riot, MCA 45-8-103.

Sec. 16-41.—Incitement to riot.—

A person commits the offense of incitement to riot if such person purposely and knowingly commits an act or engages in conduct that urges other persons to riot. Such act or conduct shall not include the mere oral or written advocacy of ideas or expression of belief, which advocacy or expression does not urge the commission of an act of immediate violence.

(Code 1981, § 9.02.400)

State Law reference—Incitement to riot, MCA 45-8-104.

Sec. 16-42.—Firearms—Definition.—

(a)Whenever used in this Code, the word "firearm" shall include the following:(1)Any small arms weapon, including, but not limited to a rifle, shotgun, pistol, or revolver, which fires a projectile which is propelled by gunpowder;(2)Any bb gun or pellet gun, with the exception of toy type guns which shoot non-metallic projectiles at a velocity which is not great enough to penetrate human skin.

(Ord. No. 1298, § 1, 8-11-15)

Sec. 16-43.—Discharge of firearms.—

(a)It shall be unlawful for any person to willfully shoot or fire off a firearm within the limits of the city.(b)It shall be unlawful for any person to willfully discharge a firearm upon any city-owned or city-leased property within three miles beyond the city limits of the City of Miles City, including, but not limited to, Spotted Eagle Recreation Area, Frank Wiley Field, the city wastewater treatment plant and adjoining former lagoon area, the city water treatment plant property and pumping plant park, and the industrial site west of the city limits. This prohibition shall not apply to authorized users of the Miles City Police Department pistol range adjacent to the city water treatment plant, nor to shotgun users of the trap shooting range at Spotted Eagle Recreation Area during daylight hours. The following hunting exceptions apply: with permission obtained 24 hours in advance from the airport manager or the waste water plant manager/operator, archery for big game hunting; shotgun and archery hunting of upland game birds, spring turkey and waterfowl on city-owned property which is fenced outside of the runways at the airport, and hunting access is also allowed at the wastewater plant, providing hunting access to the river.(c)Any person who violates this section shall be punishable by a fine not exceeding \$500.00 or by imprisonment in the county jail for a period not exceeding six months, or both.(d)Firearms may be discharged in an indoor

or outdoor rifle, pistol, or shotgun shooting range located within the city limits if the shooting range is approved by the city council. (e) Subsections (a) and (b) do not apply if the discharge of a firearm is justifiable under MCA Title 45, Chapter 3, Part 1. (Code 1981, § 9.02.420; Ord. No. 1236, § 2, 4 10-12; Ord. No. 1250, § 1, 2-12-13; Ord. No. 1298, § 2, 8-11-15)

State Law reference—Firing firearms, MCA 45-8-343.

Sec. 16-44.—Reserved.——

Editor's note—Ord. No. 1332, § 1, adopted April 23, 2019, repealed § 16-44, which pertained to carrying or sale of switchblade knives and derived from the Code of 1981, § 9.02.430.

Sec. 16-45.—Carrying weapon in prohibited place.—

(a) It is unlawful for any person to purposely or knowingly carry, concealed or unconcealed, any dirk, dagger, firearm, slingshot, sword, sword cane, billy knuckles made of any metal or hard surface, knife having a blade four inches long or longer, razor, not including a safety razor, or other deadly weapon in the following places: (1) In a publicly owned building within the city limits; (2) In a park within the city, unless such person has a concealed weapon permit (CWP) valid in the State of Montana, in which case they may carry the same in a concealed fashion; (3) In a school within the city limits. (b) Subsection (a) shall not apply to: (1) Any peace officer of the State of Montana or of another state who has the power to make arrests; (2) Any officer of the United States government authorized to carry a concealed weapon; (3) A person in actual service as a member of the national guard; (4) A person summoned to the aid of any of the persons named in subsections (b)(1) through (b)(3); (5) A civil officer or the officer's deputy engaged in the discharge of official business; (6) A probation and parole officer authorized to carry a firearm under MCA 46-23-1002; (7) An agent of the department of justice or a criminal investigator in a county attorney's office. (c) Nothing contained in this section shall prohibit the legitimate display of firearms at shows or other public occasions by collectors or others or the legitimate transportation of firearms through the city, whether in airports or otherwise. (d) It is not a defense to this section that the person had a valid permit to carry a concealed weapon. (e) A person convicted of violating this section shall be punished by a fine not to exceed \$500.00 or imprisonment in the county jail for a term not to exceed six months, or both.

(Code 1981, § 9.02.440; Ord. No. 1236, § 3, 4 10-12; Ord. No. 1298, § 3, 8-11-15)

Sec. 16-46.—Carrying of firearms by minors.——

It is unlawful for a parent, guardian or other person having the charge or custody of any minor child under the age of 14 years to permit such minor child to carry or use in public any firearms of any description within the city limits, except when the child is accompanied by a person having charge or custody of the child or under the supervision of a qualified firearms safety instructor or an adult who has been authorized by the parent or guardian.

~~(Code 1981, § 9.02.450; Ord. No. 1236, § 4, 4-10-12)~~

~~State Law reference— Use of firearms by children under fourteen prohibited, MCA 45-8-344.~~

Sec. 16-47. - Open burning.

It shall be unlawful for any person to start an open outdoor fire without a permit from the chief of the city fire department; provided this section shall not apply to small fires used for outdoor cooking or other recreational purposes as long as no public nuisance is created.

(Code 1981, § 9.02.460)

Cross reference— Incineration of solid waste, § 19-7.

Sec. 16-48. - Fireworks.

It shall be unlawful for any person to discharge or cause to be discharged any fireworks, as defined by state law, within the city limits; provided that the city council may grant a permit for a supervised public display of fireworks to be held by the city, fair association, amusement park or other organizations or groups of individuals. The city council, by resolution, may allow the discharge of fireworks at special times and places as deemed appropriate as long as such use is in accordance with state law and any other reasonable restrictions which the council may impose in order to preserve the public peace and safety. Notwithstanding the foregoing, the discharge of fireworks shall be allowed between the hours of 10:00 a.m. and 10:00 p.m. on July 3rd; between 10:00 a.m. and midnight on July 4th; and between 10:00 a.m. and 10:00 p.m. July 5th; at the following locations within the city of Miles City, to-wit: Bender Park, Riverside Park, Jaycee Field, Tedesco Field. Furthermore, non-aerial fireworks, being those fireworks which do not project themselves into the air, or fire projectiles into the air, shall be generally allowed within the city limits on July 4th of each year, but shall not be allowed on any other day except as hereinbefore set forth. The foregoing allowances may be altered or suspended by resolution of the city council, or by executive order of the mayor.

(Code 1981, § 9.02.470; Ord. No. 1154, § 1, 4-26-05; Ord. No. 1313, § 1, 7-11-17)

Cross reference— Unlawful transactions with children, § 16-7.

State Law reference— Supervised public display of fireworks authorized, MCA 50-37-107.

Sec. 16-49. - Posting of handbills.

It shall be unlawful for any person to post or cause to be posted any advertisement, political or otherwise, upon any telephone pole, tree, building or other structure within the city limits, without first having obtained the written consent of the owner of such property.

(Code 1981, § 9.02.480)

Cross reference— Posting of advertisements in public places, § 20-2.

~~Sec. 16-50.— Peeping person.~~

~~(a)Definition. The term "peeping person" means one who looks or peeps through the window(s) or door(s) or other like places of the premises of another for the purpose of spying upon or invading the privacy of the person spied upon, and the doing of any other act of a similar nature which invades the privacy of such persons. A person does not have to be on the premises of another to be a peeping person.(b)Prohibited. It is unlawful for any person to be a peeping person, or to go upon, approach or be near the premises of another for the purpose of becoming a peeping person.(c)Penalty for violation. Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.(d)Severability. If any provision of this section shall be held invalid or unenforceable, none of the other provisions of this section shall thereby in any way be affected, impaired or rendered inoperative but shall be given full force and effect as if all the provisions of this section were lawfully valid and enforceable.~~

~~(Ord. No. 1057, §§ 1—4, 11-22-94)~~

Secs. 16-51—16-100. - Reserved.

ARTICLE II. - CURFEW

Sec. 16-101. - Short title.

This article shall be known and may be cited as the curfew article.

(Ord. No. 1052, § 4, 7-26-94)

Sec. 16-102. - Purpose.

The purpose of this article is to establish reasonable restrictions upon the time of day during which juveniles shall be allowed in or upon any of the streets or other public places of the city. Such restrictions are enacted to further the general welfare of the community and specifically to further the following community interests: (1) the protection of the younger children in the city from each other and from other persons on the street during the nighttime hours; (2) the enforcement of parental control of, and responsibility for, their children; (3) the protection of the public from nocturnal mischief by children, which has been increasing; (4) the reduction in the incidence of juvenile criminal activity, which has been on the rise; and (5) prevent exposure to, and the possibility of being led into involvement with, crimes of violence, destruction and/or self-destruction. These restrictions are enacted pursuant to MCA 7-1-4123.

Sec. 16-103. - Scope.

The provisions of this article are intended to apply to all juveniles under the age of 18 years and to the parent(s) of such juveniles.

Sec. 16-104. - Definitions.

As used in this article, the following definitions shall apply:

City. The local government of the city, and all of the area located within its boundaries and properties owned by the city.

Curfew. A regulation establishing restrictions upon the time of day during which juveniles may appear on any of the street or public places of the city.

Emergency. Emergency shall include, but not limited to, fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

~~Law enforcement facility. The offices of the City of Miles City Police Department, 1010 Main, Miles City, Montana, or the Custer County Sheriff's Office, located in the city.~~

Law enforcement officer. Any duly sworn peace officer or agent acting under the authority of a recognized law enforcement entity.

Juvenile. Any person, male or female, who has not attained the age of 18 years.

Juvenile child(ren). Any juvenile person(s) over whom an adult has legal custody of: (i) by being the natural or adoptive parent of such juvenile person; (ii) by being the legal guardian of such juvenile person; or (iii) by being given legal custody of such juvenile person by order of court.

Parents. Any person(s) having legal custody of a juvenile: (i) as a natural or adoptive parent; (ii) as a legal guardian; or (iii) as a person to whom legal custody has been given by order of court.

Person. Any human being, male or female.

Public place. Any park, playground, school yard, or other public or privately-owned property within the jurisdiction of the city to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, vehicles and shops.

Street. Any public street, highway, sidewalk, parking lot, alley or other public way within the jurisdiction of the city.

(Ord. No. 1052, § 5, 7-26-94)

Sec. 16-105. - Curfew for juveniles.

A curfew restricting the time of day during which juvenile persons may appear on any of the streets or in any of the public places of the city, is hereby established. No juvenile shall knowingly remain, walk, run, stand, drive or ride about, in or upon any street or public place in the city between the hours of 11:00 p.m. and 6:00 a.m. except on Friday or Saturday nights and on any other night preceding a holiday recognized by the United States of America, State of Montana, or the City of Miles City, the hours shall be between 12:00 midnight and 6:00 a.m.

Sec. 16-106. - Exceptions.

In the following exceptional cases, a juvenile in or upon any street or public place within the city, during the hours provided herein, shall not be considered in violation of this curfew article when:

(1)Accompanied by a parent of such juvenile.(2)In the performance of an emergency.(3)Attending a school, government, or religious activity. This exception will apply for one-half hour before to one-half hour after such activity.(4)Engaged in legally recognized employment. This exception will apply for the period from one-half hour before to one-half hour after work.

(Ord. No. 1052, § 6, 7-26-94)

Sec. 16-107. - Duty of parent.

No parent of any juvenile shall knowingly allow or permit any such juvenile to go or be in or upon any street or public place within the city after the hours prescribed. The circumstances must be such that a reasonable, responsible parent should have known of the juvenile's violation.

(Ord. No. 1052, § 5, 7-26-94)

Sec. 16-108. - Duty of law enforcement officers.

(a)Upon finding a juvenile in violation of any of the provisions of this curfew article, it shall be the duty and responsibility of any law enforcement officer to take the name of such juvenile and the name and address of the juvenile's parent.(b)The law enforcement officer shall ~~arrest~~ detain the juvenile and the parent shall immediately be notified to appear and take custody and charge of such juvenile.(c)When a juvenile is ~~arrested~~ detained for violation of the provisions of this article, the law enforcement officer shall turn the juvenile over to the juvenile's parent(s). If a parent cannot be located, or fails to take charge of the juvenile, said juvenile may be entrusted to a relative, neighbor or other person who will, on behalf of the parent(s), assume the responsibility of caring for the juvenile pending the availability or the arrival of the parent(s). In cases where the juvenile is released to someone other than a parent

the arresting investigating officer must locate and notify such parent(s) within 48 hours of the arrest.(d)In cases where a responsible relative or adult cannot be readily located, the arresting officer shall transport the juvenile to the police department law enforcement facility until a responsible adult can be located. The juvenile shall then be released into their custody.(e)If an officer locates the juvenile's parent(s) and the investigation reveals the parent(s) knowingly allowed or permitted the juvenile to violate this curfew article, the officer shall have the authority to issue to said parent(s) a citation for the described violation. Both parents may be issued a separate citation under this paragraph and in such case, each parent cited shall be subject to the fines listed below.(f)The law enforcement officer shall file a written report (Complaint and Offense Report) to the chief of police or his designee within 24 hours of violation if criminal charges are to be made under this article.(g)Notwithstanding the penal effect of this article, the chief of police is encouraged to develop alternative enforcement strategies, which may include, but need not be limited to, the return of juveniles to their residences and counseling with juveniles and their parent(s). The enforcement strategies shall be promulgated in writing to members of the police department so that this article may be enforced in a uniform manner.

Sec. 16-109. - Penalty for violation.

Upon an incident of violation of this article by a juvenile, written notice shall be given to the juvenile and such juvenile's parent(s), whether or not such parent(s) knowingly allowed or permitted such violation. Violations and convictions of this article by either a juvenile or parent(s) subsequent to this giving of written notice shall be considered municipal infractions and shall result in the imposition of the following fines:

| | Juvenile Violation | Parental Violation |
|-----------------------------------|--------------------|--------------------|
| 1st Subsequent Violation | \$ 25.00 | \$ 50.00 |
| 2nd Subsequent Violation | 50.00 | 75.00 |
| 3rd Subsequent Violation | 50.00 | 100.00 |
| 4th Subsequent Violation | 50.00 | 150.00 |
| 5th Subsequent Violation | 50.00 | 200.00 |
| 6th and all Subsequent Violations | 50.00 | 250.00 |

The parental violation shall apply and accumulate to each parent separately and individually. The parental violation and juvenile violation shall be determined independently. For purposes of determining whether a parental violation is a 1st, 2nd, 3rd, 4th, 5th or 6th and subsequent violation, all previous violations by the parent shall be counted without regard to whether they related to different juvenile children of the parent.

Juveniles shall be cited into city court upon violation of this article at the discretion of the arresting police officer, or alternatively, may be cited into juvenile probation.

(Ord. No. 1052, § 9, 7-26-94)

Sec. 16-110. - Severability.

If any provision of this curfew article shall be held invalid or unenforceable, none of the other provisions of this article shall thereby in any way be affected, impaired, or rendered inoperative but shall be given full force and effect as if all the provisions of this article were lawfully valid and enforceable.

CHAPTER 17 – PARKS AND RECREATION

ARTICLE IV. – BOATS, LAKES, and WATERWAYS

Sec. 17-79. - Motorboats prohibited on Cook Lake.

(a)Prohibition. It shall be unlawful to operate a motorboat or personal watercraft within and upon the confines of Cook Lake except as provided in subsection (c), below.

(b)Definitions.

(1)Motorboat. Motorboat means any vessel propelled by any machinery, motor, or engine of any description, whether or not such machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable machinery, motors, or engines, but does not include personal watercraft.

(2)Personal watercraft. Personal watercraft means a vessel that uses an outboard motor or inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(c)Exceptions. It shall be lawful to operate a motorboat or personal watercraft within and upon the confines of Cook Lake from July 1st through August 15th of any year under the following conditions:

(1)Motorboats. No more than one motorboat shall be in operation within and upon the confines of Cook Lake at any one time.

(2)Personal watercraft. No more than four personal watercrafts shall be in operation within and upon the confines of Cook Lake at any one time.

(3)Exclusivity. No motorboat or personal watercraft shall be in operation at the same time within the confines of Cook Lake.

~~(d)Penalty for violation. Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by any one or all of the following penalties:(1)Fine. A fine not to exceed \$500.00;(2)Imprisonment. By imprisonment for a term not to exceed six months;~~

(1) Any person violating any provision of this section is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the

provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed; and/or

(2)Suspension of privileges. Any person violating this section may have his or her privileges for operating a motorboat or personal watercraft within or upon the confines of Cook Lake suspended for a period of up to one year.

ARTICLE V. – PARK USE PERMITS

Sec. 17-113. - Violation ~~a misdemeanor~~; penalty.

~~Any person violating any provisions of this article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment for a term not to exceed six months, or both.~~

Any person violating any provision of this article is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

ARTICLE VI. – PARK REGULATIONS.

Sec. 17-122. - Violation ~~a misdemeanor~~; penalty.

~~Any person violating any provisions of this Article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment for a term not to exceed six months, or both.~~

Any person violating any provision of this article is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 19 – SOLID WASTE

Sec. 19-2. - Penalty for violation of chapter.

Except as otherwise specified, any person who violates the provisions of this chapter ~~shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three

hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 20 – STREETS AND SIDEWALKS

ARTICLE II. – GRADES AND BENCHMARKS; CONSTRUCTION STANDARDS

Sec. 20-36. - Penalty for violation of article.

Any person who violates the provisions of this article ~~shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 22 - TRAFFIC AND MOTOR VEHICLES

ARTICLE II. - LICENSES AND VEHICLE REGISTRATION

ARTICLE I. - IN GENERAL

(NOTE: ALL TRAFFIC RELATED OFFENSES CURRENTLY IN THE CODE WOULD REMAIN INTACT, AND COULD BE CHARGED AS MUNICIPAL INFRACTIONS RATHER THAN UNDER THE MCA)

...

Sec. 22-3. - Penalty for violation of chapter.

~~Except as otherwise specified, any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

Unless otherwise specifically provided, any person violating any provision of this chapter is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction.

For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.

A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

REPEAL ALL PENALTY PROVISIONS FOR INDIVIDUAL ARTICLES, ALL WILL FALL UNDER PENALTY PROVISION FOR CHAPTER, SET FORTH IN SEC. 22-3

~~Sec. 22-56.— Penalty for violation of article.—~~

~~Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-86.— Penalty for violation of article.—~~

~~Except as otherwise specified, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-111.— Penalty for violation of article.—~~

~~Except as otherwise specified, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-150.— Driving under influence of intoxicating liquor or drugs.—~~

~~(a)It is unlawful and punishable as provided in subsection (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this municipality.(b)In any criminal prosecution for a violation of subsection (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance, shall give rise to the following presumptions:(1)If there was at that time 0.05 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.(2)If there was at that time is excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.(3)If there was at that time 0.10 percent of more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.(4)Percent by~~

weight of alcohol in the blood shall be based upon grams of alcohol per 100 cubic centimeters of blood. (5) The provisions of this subsection (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor. (c) It is unlawful, and punishable as provided in subsection (d) of this section, for any person who is an habitual user of or under the influence of any narcotic drug, or who is under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle, to drive a motor vehicle within this municipality. The fact that any person charged with a violation of this subsection is or has been entitled to use such a drug under the laws of this municipality shall not constitute a defense against any charge of violating this subsection. (d) Every person who is convicted of a violation of this section shall be punished by imprisonment in the city jail for not more than six months or by a fine of not less than \$100.00 or more than \$500.00, or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment in the city jail for not less than ten days nor more than six months, to which may be added, at the discretion of the court, a fine of not less than \$300.00 nor more than \$500.00. On the third or subsequent conviction he shall be punished by imprisonment for a term of not less than 30 days nor more than one year, to which may be added, at the discretion of the court, a fine of not less than \$500.00 nor more than \$1,000.00.

Sec. 22-171. — Penalty for violation of article. —

Except as otherwise specified, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.

Sec. 22-242. — Penalty for violation of article. —

Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$100.00 and not more than \$500.00 or by imprisonment for a term not to exceed six months, or both.

Sec. 22-271. — Penalty for violation of article. —

(a) Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this article shall constitute a separate offense.

Sec. 22-301. — Penalty for violation of article. —

Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or imprisonment for a term not to exceed six months, or both.

Sec. 22-366. — Penalty for violation of article. —

~~Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-396. — Penalty for violation of article. —~~

~~Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-426. — Penalty for violation of article. —~~

~~Any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

~~Sec. 22-451. — Penalty for violation of article. —~~

~~Unless otherwise provided, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both.~~

Chapter 20 – STREETS AND SIDEWALKS

Sec. 20-1. - Penalty for violation of chapter.

~~(a) Except as otherwise specified, any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this chapter shall constitute a separate offense.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 21 – SUBDIVISIONS

Sec. 21-6. - Violations and penalties.

~~Any person who violates any of the provisions of the MSPA or these regulations (Chapter 21) is guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment in a county jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations (Chapter 21) shall be deemed a separate and distinct offense.~~ is guilty of a municipal infraction and shall have imposed a civil penalty of

not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Chapter 23 – UTILITIES

ARTICLE II. – WATER

Sec. 23-26. - Penalty for violation of article.

~~Unless otherwise provided, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. Any~~ person violating any provision of this article is guilty of a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. A person violating the provisions of this code is guilty of a separate offense for each and every day during any portion of which any violation of this code is committed, continued, or permitted to be committed.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 28th day of June, 2022.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 12th day of July, 2022.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

07/05/2022

City Council Members:

Last meeting, the Miles City Adult Softball League came to you requesting an alcohol variance that was denied. After some discussion among our board members, we came to the conclusion that perhaps there was some miscommunication on our part and so we are requesting the opportunity to clarify the situation and ask that you consider the request a second time.

For the last several decades adult softball has been a staple at Bender Park. And although interest has fluctuated from years ago when we needed several nights of softball to accommodate men's, women's, and co-ed leagues to our current situation of only co-ed one evening a week; it has always remained a great opportunity for adults to get together and enjoy some exercise, fresh air, and friendship. During this time, the city has been gracious enough to waive the variance that would normally be required and allow alcohol consumption with the understanding that we keep the park clean, not allow glass containers, and that no one gets out of hand. We have always taken this privilege very seriously, and in all this time there has never been a situation where we have ever been made aware that we were not holding up our end of the agreement; so we were a little surprised, but not concerned this year when we were notified that a variance would be needed. Unfortunately, and we believe due to the aforementioned lack of communication, this variance was denied. We hope with more information you will reevaluate your original decision taking into consideration the information provided and the continued respect and appreciation we show for the park not only by our careful maintenance, but also by the improvements we have purchased for the benefit and use of all those who utilize Bender Park.

Thank you for your time,

Jenifer Losey
Secretary/Treasurer MC Adult Softball League

New Business

RESOLUTION NO. 4463

A RESOLUTION ADOPTING THE “MODEL GOVERNMENT SOCIAL MEDIA TERMS AND CONDITIONS FOR USERS” PERTAINING TO CITY OF MILES CITY SOCIAL MEDIA ACCOUNTS.

WHEREAS, the City of Miles City maintains various social media accounts, and finds it in the best interest of the City to adopt the Model Governmental Social Media Terms and Conditions pertaining to the use of said social media accounts, and the handling of comments and citizen social media users who interact with and post/comment on the same;

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

1. The “Model Government Social Media Terms and Conditions for Users,” attached hereto as Exhibit “A” and incorporated by this reference, are hereby adopted.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 12TH DAY OF JULY, 2022.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

Model Government Social Media Terms and Conditions for Users

PURPOSE. Because many of our citizens and other stakeholders utilize social media for news and communications, The City of Miles City has developed its own social media accounts, which help us inform the public about our work and mission.

The City of Miles City has an important interest in assuring the accuracy and consistency of information associated with our social media sites. We also respect the First Amendment to the U.S. Constitution and the constitutional right to freedom of speech. These terms and conditions establish guidelines for the public's use of social media that balances these values.

DEFINITIONS

1. "Social media" means digital content created by us and communicated on platforms that allow sharing, commenting, and engagement from the public. Examples of social media accounts we may use are Facebook, Twitter, Instagram, YouTube, and LinkedIn.
2. "Comments" include any digital content, information, links, images, videos, or any other form of communicative content posted in reply or response to a social media account operated by us.
3. "User" means a member of the public who views or interacts with one or more of our social media accounts.

GENERAL GUIDELINES

1. These terms and conditions apply to all our social media sites. Where possible, a link to these terms and conditions will be made available as a hyperlink or posted as text somewhere on our social media account(s).
2. Users should know that social media posts we make, comments and replies to those posts, and any direct or private messages sent to us may be public records subject to applicable public records release.

3. Our social media accounts are not monitored 24/7 and no one should utilize our social media accounts to seek emergency services. Anyone in need of emergency help should call 9-1-1.
4. We do not guarantee we will respond to comments or messages sent on our social media accounts.

EXPECTATIONS

1. The leaders of The City of Miles City believe that honest, civil, and productive discussions provide the best environment for citizens to understand the work of their government and participate in constructive engagement.
2. We ask users to consider that our social media feeds may be viewed by children and other impressionable people. Please avoid profanity, personal attacks, bullying, or use of incorrect information.

CONTENT MODERATION

1. **Limited Public Forum.** Our social media accounts are created and maintained as limited public forums under the caselaw pertaining to the First Amendment to the U.S Constitution. We invite members of the public to view and, where possible, provide comments or other engagement on our social media accounts. However, the law permits us to hide and/or delete comments that are not protected speech under the First Amendment and relevant caselaw. As a general rule, we will not hide and/or delete comments solely because such comments are critical of The City of Miles City or its officials.
2. **Prohibited Content.** Relevant First Amendment caselaw permits us to hide or delete certain comments on our social media accounts. The following will be hidden or deleted:
 - a. Comments directly advocating violence or illegal activity.
 - b. Comments containing obscenity, which is defined as sexually explicit and/or pornographic content that is patently offensive, appeals to

prurient interest, and lacks serious literary, artistic, political, or scientific value;

- c. Comments that directly promote or advocate that we illegally discriminate based on race, age, religion, gender, national origin, disability, sexual orientation, veteran status, or any other legally protected class;
 - d. Comments containing links to malware and/or malicious content that affects the normal functioning of a computer system, server, or browser;
 - e. Duplicate comments posted repeatedly within a short period of time;
 - f. Comments containing actual defamation against a person, either as determined by a court or comments that are patently defamatory by easily discovered facts;
 - g. Comments that contain images or other content that violate the intellectual property or copyright rights of someone else, if the owner of that property notifies us that the property was posted in a comment on our social media account(s).
 - h. Comments that contain a hyperlink to any website other than those controlled by The City of Miles City. This will be done without regard to the viewpoint of the comment containing such a link or the content of the site to which the link redirects.
3. **Retention.** When a comment containing any of the above content is posted to our social media account(s), a copy or electronic record of that content may be retained or archived pursuant to our records retention policy, along with a brief description of the reason the specific content was deleted. Once documented, the content will be removed, where possible, from our social media account(s).
4. **Right of Appeal.** If our staff hides or deletes a user's comment pursuant to these terms and conditions, the user has the right to appeal that decision by sending an email or letter to The City of Miles City's Attorney within five business days. This correspondence will provide the user with an explanation for the action taken.

Upon receipt of an appeal, our attorney will determine whether the comment at issue contained content protected by the First Amendment. If the appeal is successful, the comment may (if possible) be restored for public view, or the user may be permitted to repost the comment. Upon a determination that the comment was not protected by the First Amendment, the user will be notified that the appeal was denied.

5. **Blocking or Banning a User.** When we determine that a user has violated these terms and conditions on three or more occasions within a twelve-month rolling period, we may block or ban the offending user from the social media account where the violations occurred.

If we block or ban a user, we will (a) reasonably attempt to notify the user; (b) describe the violation(s); and (c) explain the appeal process.

If the appeal is successful and the user has not violated this policy three times within a rolling 12-month period, we will unblock or unban the user from the social media account. If the appeal is not successful, our decision will stand.

RESOLUTION NO. 4464

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN AGREEMENT WITH THE MONTANA DEPARTMENT OF TRANSPORTATION FOR STREET SWEEPING FOR FISCAL YEAR 2022-2023.

WHEREAS, pursuant to Section 60-2-204 MCA the City of Miles City has negotiated an agreement with the Montana Department of Transportation for the City of Miles City to provide street sweeping and flushing services upon specific sections of state highway within or abutting the City of Miles City, a copy of which is attached hereto as Exhibit "A";

AND WHEREAS, the City Council of the City of Miles City finds that it is in the best interest of the City of Miles City to enter into such agreement with the Montana Department of Transportation;

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

1. The Agreement for the provision of street sweeping and flushing service between the City of Miles City, Montana and the Montana Department of Transportation, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by the Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and to bind the City of Miles City thereto.
3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and to bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 12TH DAY OF JULY, 2022.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

Montana Department of Transportation
Miles City Maintenance Division
217 North Fourth Street
Miles City, Montana 59301

Street Sweeping Agreement

This agreement is between the City of Miles City and the Montana Department of Transportation (MDT) for defining street sweeping and flushing responsibilities of the City and MDT in accordance with state law which allows MDT to enter into an agreement with local governments to provide maintenance of State routes with provision for full reimbursement. The term of this agreement shall be for one year beginning July 1, 2022.

LIMITS OF AGREEMENT: The listing of streets and intersections identified under items covered is a full and complete listing of areas covered by this agreement. Unless otherwise defined, that list includes all intersections along the route and intersecting streets for a distance of 15' or to the end of the curb radius return, whichever is greater, and shall include all of the street right of way. During the term of this Agreement, additional areas may be added by written Agreement of the parties.

SCOPE OF AGREEMENT: This agreement covers all activities ordinarily associated with street sweeping and flushing activities.

ITEMS COVERED: Payment to the City for this Agreement shall be for the following:

STREET CLEANING ACTIVITIES:

The City will flush the streets identified below once per week and sweep and clean the streets identified below once every other week, unless otherwise noted. This will begin July 1, 2022, through October 15, 2022 and begin again on April 15, 2023 through June 30, 2023, approximately six months.

- a. Main Street beginning at the westernmost end of the Tongue River bridges proceeding east to the intersection of Main Street and Haynes Avenue.
 - b. North Seventh Street beginning 15' south of the intersection of North Seventh Street and Main Street and proceeding North to the old Milwaukee Railroad tracks.
 - c. Haynes Avenue beginning at the intersection with East Main Street and proceeding south to the south side of the entrance to the Comfort Inn, south of the Broadus Interchange. *The City of Miles City will sweep and flush every 3rd week of the month.
 - d. The Montana Department of Transportation will assist in sweeping activities when excessive sand or leaves have been deposited on the designated state routes.
- If additional sweeping or flushing is requested by the Montana Department of Transportation, and approved by the Maintenance Chief, the agreed rate will be \$55.00 per hour for sweeping and \$32.00 per hour for flushing.

MONTANA PRODUCT PREFERENCE: The City will provide Montana-made goods where those goods are comparable in price and quality to those required by this Agreement pursuant to Section 18-1-112(1), MCA.

COSTS / PAYMENT: The costs associated with this Agreement shall be \$1800.00 per month for a period of six months beginning July 1, 2022, and ending June 30, 2023. This will be a lump sum cost for the activity described, and shall be paid to the City on an annual basis.

The City shall submit billing and a narrative summary of the work done in the period of this Agreement on or before June 10, 2023. MDT agrees to make payment within 20 calendar days of receipt of the billing.

RECORDS: The labor, equipment and materials used on the streets covered in this Agreement shall be assigned a special budget category by the City. No record keeping shall be attempted to break contractual costs against individual streets that are covered in this Agreement. All City records concerning this project are open for review and/or audit by representatives of MDT or the Legislative Auditor at any reasonable time.

TERMINATION: This Agreement may be terminated upon thirty days written notice, delivered by certified mail, return receipt requested, by either party. Upon service of such notice, MDT is liable only for actual work completed as of the date of the notice.

HOLD HARMLESS / INDEMNIFICATION: MDT agrees to hold harmless and/or indemnify the City for damages resulting from the construction or design done by MDT of the streets and areas covered by this Agreement. This holds harmless / indemnification clause shall not cover damages, which are caused whether directly or indirectly by the work done by the City pursuant to this Agreement. The City agrees to defend, protect, indemnify and save harmless MDT and the State against and from all claims, liabilities, demands, causes of action, judgments, and losses claimed to be due to the City's performance of the activities of this Agreement.

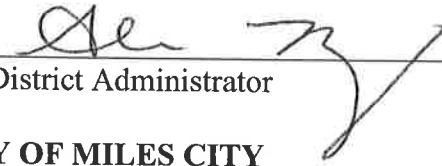
CIVIL RIGHTS COMPLIANCE: The City must comply with all applicable Federal and State laws including, but not limited to, prevailing wage laws and those laws referred to in the two-page NOTICE attached hereto, which is made a part of this Agreement by its reference.

LAW AND VENUE: The laws of Montana govern This Agreement. The parties agree that, in the event of any dispute concerning this Agreement, any litigation will be adjudicated utilizing the appropriate, established legal/judicial systems.

ENTIRE AGREEMENT: This document, with the attached Notice, contains the entire Agreement between the parties, and no statements, promises or inducements made by either party or its agents which in any way modifies, alters or changes the contents of the document is binding. Any subsequent modification must be done by a separate written document.

IN WITNESS THEREOF, the parties hereto caused this Agreement to be executed in duplicate by their duly authorized officers.

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION**

By:  Date 6-24-2022
District Administrator

CITY OF MILES CITY

By: _____ Date _____
Title: _____
Attest: _____

Enclosures
Notice Approved for Legal Content per the attached signature page of the original Agreement.

RESOLUTION NO. 4465

A RESOLUTION APPROVING A REVISED COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MILES CITY AND THE LOCAL NO. 283-A UNION.

WHEREAS, the City of Miles City (“City”) and the Local No. 283-A of the American Federation of State, County and Municipal Employees, AFL-CIO (“Local 283A”) have negotiated and desire to enter into a new collective bargaining agreement (CBA), which covers certain City employees who work for the City;

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

1. The Collective Bargaining Agreement between the City of Miles City and the Local 283-A, attached hereto as Exhibit “A” and made a part hereof, is hereby approved and adopted by the City Council of the City of Miles City.

2. The Mayor of the City of Miles City is hereby authorized and empowered to execute the same, and to bind the City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 12th DAY OF JULY, 2022.

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk



CITY OF MILES CITY

Item: Labor Agreement between the City of Miles City and the Montana State Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO Local No. 283A

From: John Hollowell, Mayor

Initiated By: Mayor's Office/AFSCME Local 283A

Presented By: John Hollowell, Mayor

Action Requested: Ratification of the Proposed Collective Bargaining Agreement with the AFSCME Local 283A

Suggested Motion:

1. Councilperson moves:
"I move that the City Council approve the labor agreement between the City of Miles City and the AFSCME Local #283A, and authorize the Mayor to execute the agreement."
 2. Mayor calls for a second, City Council Discussion, public comment, and calls for the vote.
-

Staff Recommendation:

Staff recommends that the City Council approve the labor agreement between the City of Miles City and the AFSCME Local #283A.

Background:

The current Collective Bargaining Agreement (CBA) expires on June 30, 2022. For this contract, both parties meet on April 27, 2022.

Please find below a summary detailing changes to the proposed agreement.

Summary of Changes

Agreement Term: One (1) Year – July 1, 2022 – June 30, 2023

Minor Updates throughout the CBA:

- Reformatted page numbering

Changes from the previous agreement include:

Article 1 – Changed "Street Department, Water Department, Sewer Department, Park Department, Engineering" to "Operations and Utilities"

Article 4.B.4– Change classifications to:

Grade 1 – Laborer, Assistant Utility Billing Clerk, Deputy City Court Clerk

Grade 2 – Librarian, Administrative Assistant, Commercial Driver’s License

Grade 3 – Heavy Equipment Operator II, Non-certified Plant Operator, Utility Billing Clerk

Grade 4 – Heavy Equipment Operator III, Plant Operator Single Certification, City Court Clerk

Grade 5 – Heavy Equipment Operator IV

Grade 6 – Mechanic, Plant Operator Dual Certification

Grade 7 - Foreman

Article 7.A.2 – Change “\$.05 per hour” to “1% per year, factored into the Pay Matrix”.

Article 15.K. – After “one year of employment” add “and timeframe may be extended at management’s discretion.”

Article 15.L – Added last sentence: “New employees may receive a \$200 allowance for a second pair of seasonally appropriate boots once they complete their 6-month probation.”

Article 15.M – Changed “stipend” to “foreman wage” in entire section.

Article 15.N – Changed amount from \$150 to \$200.

Article 15.O – Added Section: **“Gym Membership:** Each employee may receive \$240 annually for a gym membership, billed by the gym facility; management may request proof of attendance.”

Article 17.B – Added the work “open” prior to “position” in the third line.

Article 17.C – Added the last sentence: “Union employees will maintain all Union rights, management will set wages through resolution.”

Article 17.E – Added the last sentence: “Management may insert new hires into the wage matrix (Addendum A) based on relevant experience; this does change or advance the new hires seniority; longevity ends at year 30 in the matrix regardless of insertion point.”

Changes to Addendum A – Wages:

Created base wages for all classifications of employees with a 1% annual longevity increase. Matrix is based on 30 years of service. Cost the general fund for the change to the matrix is approximately \$16,451.

Alternatives:

The City Council could reject the proposed changes and direct the Mayor to continue collective bargaining.

City of Miles City Public Works – Local 283A
Adjustments to Collective Bargaining Agreement
FY2022-2023

- New wage matrix (attached) for all departments
- 1% Longevity factored into wage matrix
- Management may insert newly hired employees into matrix based on experience
- Water/Waste Plant evening/weekend differential \$1/hour
- Annual Clothing allowance increase by \$50
- New employees may receive \$200 allowance for a second pair of seasonally appropriate boots once they complete their 6-month probation
- City employees now have access to an annual gym membership to promote employee health
- Added pool license stipend of \$0.35/hour for chemical safety of froggy pool and splash pad
- Impact to General Fund for FY2022-2023: under \$16,000.

**COLLECTIVE BARGAINING
AGREEMENT**

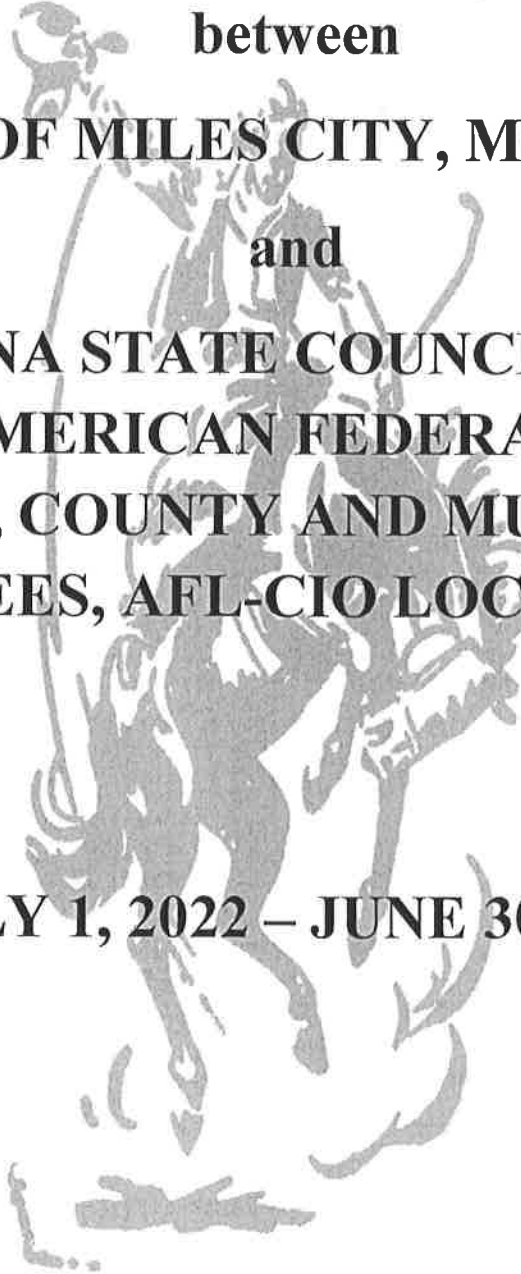
between

CITY OF MILES CITY, MONTANA

and

**MONTANA STATE COUNCIL NO. 9 OF
THE AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO LOCAL NO. 283A**

JULY 1, 2022 – JUNE 30, 2023



283A COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2020 – JUNE 30, 2022

TABLE OF CONTENTS

AGREEMENT 1

ARTICLE 1 – RECOGNITION 1

ARTICLE 2 - DUES ASSIGNMENT 1

 A. Union Security..... 1

 B. New Employee Orientation 1

 C. Statutory Rights/Inquiries..... 2

 D. Voluntary Assignments 2

 E. Amount Deducted 2

 F. Indemnification 2

ARTICLE 3- EMPLOYEE RIGHTS..... 2

 A. Union Activities 2

 B. Nondiscrimination 3

 C. Representation 3

 D. Personnel File..... 3

 E. Just Cause 3

ARTICLE 4- SENIORITY, LAYOFF & RECALL 3

 A. Seniority 3

 B. Layoff 4

 C. Recall..... 5

ARTICLE 5 - EMPLOYMENT POLICY..... 5

 A. Probationary Period 5

 B. Operator's License Required 5

ARTICLE 6- HOURS OF WORK..... 6

 A. Workday..... 5

 B. Workweek 5

 C. Shifts..... 6

 D. Rest Periods 6

 E. Lunch Period 6

 F. Double-shift..... 6

 G. End of Shift..... 6

 H. Water/Wastewater Plant Work Week..... 7

ARTICLE 7- COMPENSATION..... 7

 A. Salaries, Wages, & Longevity 7

 B. Overtime 7

 C. Compensatory Time 8

 D. Call-outs & Standby Time 8

 E. Deduction Slips 9

 F. Equal Pay for Equal Work 9

283A COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2020 – JUNE 30, 2022

TABLE OF CONTENTS

ARTICLE 8- HOLIDAYS..... 9

 A. Holidays..... 9

 B. Holiday or Sunday Work..... 9

 C. Scheduled Days Off..... 9

ARTICLE 9- VACATIONS..... 10

 A. Accrual & Use..... 10

 B. Maximum Accrual..... 10

 C. Pay-off..... 11

 D. Death..... 11

 E. Vacation Dates..... 11

 F. During a Holiday..... 11

 G. On a Split Basis..... 11

 H. Running Total..... 11

ARTICLE 10- SICK LEAVE..... 11

 A. Defined..... 11

 B. Accrual of Sick Leave..... 11

 C. Payment of Sick Leave..... 12

 D. Other Sick Leave Provisions..... 12

 E. Emergency Sick Leave..... 13

ARTICLE 11 -OTHER LEAVE WITH PAY..... 14

 A. Military Leave..... 14

 B. Jury & Witness Duty..... 14

 C. Funeral of Co-Workers..... 14

 D. Union Leave..... 14

 E. Personal Leave Day..... 15

ARTICLE 12 - LEAVE WITHOUT PAY..... 15

 A. Entitlement..... 15

 B. Requests..... 15

 C. Response..... 15

 D. Public Service Leave..... 15

ARTICLE 13- FAMILY & MEDICAL LEAVE..... 15

 A. Grant & Use..... 15

 B. Seniority..... 16

 C. Transfer..... 16

283A COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2020 – JUNE 30, 2022

TABLE OF CONTENTS

D. Violations 16

ARTICLE 14- LEAVE AUTHORIZATION & VERIFICATION..... 16

 A. Authorization 16

 B. Verification 16

 C. Frequent Absences..... 16

ARTICLE 15 - WORKING CONDITIONS 17

 A. Work Rules 17

 B. Separation..... 17

 C. Visits by Union Representative 17

 D. Union Bulletin Boards 17

 E. Personal Property 17

 F. Safety Equipment..... 18

 G. Replacement of Tools..... 18

 H. Description of Heavy Equipment..... 18

 I. Supervisors Operating Equipment..... 18

 J. Immunizations 18

 K. Commercial Drivers Licenses 18

 L. Safety Toed Boots..... 19

 M. Foreman Pay..... 19

 N. Clothing Stipend 19

 O. Gym Membership 19

ARTICLE 16- HEALTH, SAFETY & WELFARE 19

 A. Industrial Accident Insurance 19

 B. Health Insurance..... 19

 C. Unemployment Insurance..... 20

 D. Safety Committee 20

ARTICLE 17- JOB POSTING..... 20

 A. Posting..... 20

 B. Transfers..... 20

 C. Seasonal Employees 21

 D. Short-term Employees 21

 E. Hiring 21

ARTICLE 18- CONTRACTING & SUBCONTRACTING OF PUBLIC WORK..... 22

ARTICLE 19- GRIEVANCE & ARBITRATION PROCEDURE..... 22

283A COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2020 – JUNE 30, 2022

TABLE OF CONTENTS

| | |
|---|----|
| A. Grievance..... | 22 |
| B. Stewards & Grievance Committee | 22 |
| C. Time Limits Are Critical | 22 |
| D. Procedure | 22 |
| ARTICLE 20- MANAGEMENT RIGHTS..... | 24 |
| ARTICLE 21 - SAVINGS CLAUSE..... | 24 |
| ARTICLE 22 - STRIKES & LOCKOUTS | 25 |
| ARTICLE 23- TERM, AMENDMENTS & MODIFICATIONS OF BASIC AGREEMENT | 26 |
| SIGNATURES | 26 |
| ADDENDUM "A" | |
| 283A WAGE MATRIX..... | 1 |
| ADDENDUM "B" | |
| Heavy Equipment Operator Program | 1 |
| Evaluation Sheet | 2 |
| ADDENDUM "C" | |
| GRIEVANCE REPORT FORM | 1 |

AGREEMENT

The City of Miles City, hereinafter referred to as the "City"; and Local No. 283-A of the American Federation of State, County and Municipal Employees, AFL-CIO, representing the employees covered by this Agreement, and hereinafter referred to as the "Union"; in order to increase the general efficiency of the City Government of the City of Miles City and to eliminate, as far as possible, political consideration from city employment and to promote the moral well-being and security affected hereby, do mutually agree as follows:

ARTICLE 1 - RECOGNITION

The City recognizes the Union as the sole and exclusive bargaining agent for all employees of the City of Miles City employed in the Operations and Utilities Department, Library, and all other employees of the City, excluding employees of the Fire Department, Police Department, Central Dispatch, Appointive Officers and their deputies, and supervisors and confidential, management and probationary employees. The Union recognizes the Mayor and his or her designated agent as the representative of the City of Miles City.

ARTICLE 2 - DUES ASSIGNMENT

- A. **Union Security:** The Employer agrees to accept and honor voluntary written assignment of wages or salaries due and owing employee covered by this Agreement for initiation, reinstatement, and dues. Authorized deductions shall be revocable in accordance with the lawful terms under which an employee voluntarily authorized said deductions.

- B. **New Employee Orientation:** The Union shall have the opportunity to attend new employee orientation sessions conducted by the employer. The Employer shall provide notice at least ten (10) days prior to such sessions. The Union shall have thirty (30) minutes during the session to explain contractual rights and introduce new employees to the Union. In the event the employer does not hold a formal orientation within thirty (30) days of the initial employment of an employee, the union shall be provided with the name of the employee and his/her duty location, and the Union shall

have an opportunity to meet with the employee for thirty (30) minutes on duty time to explain contractual rights and introduce new employees to the Union.

The Employer will include in the packet of personnel and payroll forms provided to new employees covered by the Agreement, authorization for payroll deductions of union fee forms. Any union materials that require the employee's signature shall be returned to the Union by the Employer upon completion.

- C. **Statutory Rights/Inquiries:** The Union and the City agree that the City may not interfere with, restrain, or coerce employees in the exercise of rights guaranteed in 39-32-201, MCA. The parties further agree that the City shall direct all newly hired employees and current employees who have questions and concerns regarding Union membership to contact the Union-designated representatives.
- D. **Voluntary Assignments:** The City agrees to accept and honor voluntary written assignments of wages or salaries due and owing employees covered by this Agreement for Union dues.
- E. **Amount Deducted:** The amounts to be deducted shall be certified to the City by the Treasurer of the Union, and the aggregate deductions of all employees shall be remitted, together with an itemized statement, to the Treasurer by the tenth of the succeeding month, after such deductions are made.
- F. **Indemnification:** The Union indemnifies and holds harmless the City and its administrators from any claim and/or award that may result from the execution of this Article, including attorney fees and other defense costs.

ARTICLE 3 - EMPLOYEE RIGHTS

- A. **Union Activities:** No employee shall be disciplined, discharged or illegally discriminated against by the City for upholding legal Union activities.
- B. **Nondiscrimination:** It is the policy of the City and the Union to assure that employees

are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training. Complaints are to be processed under the applicable statute.

- C. **Representation:** Employees may have a Union representative present during an investigatory meeting when the employee believes that information he or she gives may be used against him or her. These rights shall be governed by the Weingarten Rule.

- D. **Personnel File:** An employee may view and obtain one copy of anything in his or her official personnel file except confidential letters of recommendation. No written reprimand or greater disciplinary document may be placed in the personnel file without the employee having been first notified of said complaint and given a copy. Only documents contained in the employee's official personnel file or documents which the employee has verified by his or her signature that he or she has read and/or received, can be used against the employee. An employee may author a rebuttal to any derogative document, which will be filed together with such document.

- E. **Just Cause:** No non-probationary employee will be disciplined or discharged except for just cause, and no probationary employee will be suspended without pay except for just cause.

ARTICLE 4 - SENIORITY, LAYOFF AND RECALL

A. Seniority:

1. *Definition:* Seniority is the number of years employed since the last date on which an employee was hired by the City in a position covered by this Agreement. Ties shall be broken by alphabetical order of the employee's last name, and by lot if a tie continues.

2. *Calculation:* One year of credit is earned for each 12 months of full-time employment or an equivalent total of part-time and/or seasonal employment.
3. *Roster:* On or about each January 1, the City will produce and post in places normally used for employee notices, a dated roster which lists each employee's name and the number of years and partial years of seniority earned to that date. An employee may appeal the number of credits credited to him or her through the grievance procedure contained herein. Absent an appeal, the data on the roster shall be deemed valid from that point forward.

B. Layoff:

1. *Layoff Notices:* When the City intends to layoff an employee or employees due to a reduction in force, the City will give a 21-day advance notice to the Union and the employee or employees.
2. *Order:* Layoffs caused by a reduction in force shall be in order of seniority within the affected classification, after all Seasonal employee(s) within the affected classification are dismissed. A junior employee may be bypassed if he or she is the sole possessor of particular skills and/or abilities which are required to perform a remaining position. An individual remaining on layoff status for three calendar years from the date of layoff shall be deemed dismissed thereafter.
3. *Bumping:* An employee subject to layoff may by written notice to the Mayor not later than ten calendar days from being notified of a pending layoff, bump the least senior employee in the bargaining unit when the employee subject to layoff is more senior and can demonstrate that he or she has the minimum qualifications and ability to perform the duties of that position, or when the nature of the duties would allow the employee to attain the minimum qualifications and abilities within the first four weeks of work in the new position through orientation and/or regular on the job training. A bumped employee shall be placed on layoff status.
4. *Classifications:* For the purpose of the Article, the classifications shall be:
Grade 1 – Laborer, Assistant Utility Billing Clerk, Deputy City Court Clerk
Grade 2 – Librarian, Administrative Assistant, Commercial Driver's License
Grade 3 – Heavy Equipment Operator II, Non-certified Plant Operator, Utility Billing Clerk

Grade 4 – Heavy Equipment Operator III, Plant Operator Single Certification, City Court Clerk

Grade 5 – Heavy Equipment Operator IV

Grade 6 – Mechanic, Plant Operator Dual Certification

Grade 7 - Foreman

- C. **Recall:** When the City intends to permanently fill a vacant or newly created bargaining unit position, the most senior employee on layoff status who can demonstrate that he or she has the minimum qualifications and ability to perform the duties of the position, or when the nature of the duties would allow the employee to attain the minimum qualifications and abilities within the first four weeks of work in the new position through orientation and/or regular on the job training, shall be recalled by certified, return-receipt letter to the employee's last known address. The employee must notify the City in writing of his or her intention to return to work not later than ten calendar days from the issuing of the recall notice, and must return to work on the date specified by the City.

ARTICLE 5 - EMPLOYMENT POLICY

- A. **Probationary Period:** Whenever new or additional employees are employed who do not possess rights of re-employment, they shall work in such position subject to a trial period of 1,040 hours of actual work from the first day of work, except seasonal employees shall be probationary during their first cumulative full season of work. All time worked during the previous three years shall count toward satisfying the probationary period. During the trial period, the employee may be released from service without recourse to the grievance procedure.
- B. **Operator's License Required:** The City shall require 1B water and 1C wastewater operator certifications issued from the State of Montana for filling the respective positions at the water and wastewater plants. An employee will be allowed 18 months or 4 attempts to pass one of the Montana Department of Environmental Quality (DEQ) certification exams. The exam type and date the test is to be taken will be determined by the plant superintendent. Termination of the employee after 4

attempts or 18 months will be at the discretion of the City.

ARTICLE 6 - HOURS OF WORK

- A. **Workday:** A standard workday shall consist of eight hours continuous, except for a normal lunch period not to exceed one hour, in any 24-hour period.
- B. **Workweek:** A standard workweek shall consist of forty hours, composed of any five consecutive workdays immediately followed by two days off. An employee's workweek is a fixed and regularly recurring consecutive 5-day period, beginning on the same day of each 7-day period. In some circumstances and in some City operations, a "nonstandard" work week with different and perhaps nonconsecutive days off, may be established with consent of the Union.
- C. **Shifts:** The shift for employees shall not be on an alternating basis, except by mutual agreement; provided, however, that in case of any emergency, the shift may be temporarily altered.
- D. **Rest Periods:** All employees shall be granted a fifteen-minute rest break during the first four hours of the shift and another fifteen-minute rest period during the second four hours of the shift. The supervisor may, at his/her discretion, require the rest period to be taken at the job site.
- E. **Lunch Period:** All employees shall be granted a lunch period during each work shift. Whenever possible, the lunch period shall be scheduled at the middle of each shift.
- F. **Double-shift:** The City may schedule a double-shift for any project, and the senior employee assigned to the project may then request his or her shift preference.
- G. **End of Shift:** Employees shall be granted a reasonable length of time for personal cleanup prior to the end of each work shift, when the type of work requires such.
- H. **Water/Wastewater Plant Work Week:** It is understood that the Water Plant and

Wastewater Plant must be manned on a 7-day week basis, therefore requiring a Sunday work shift; and that it has been established that the work period for employees at the Water and Wastewater Plant is a Calendar Week (Sunday through Saturday) and that Sunday will not be at Holiday pay. However, for overtime purposes, the sixth day after the start of an employee's shift shall be a time and one-half day and the seventh day shall be paid at two and one-half times the employee's pay scale, if the employee is required to work on those days.

ARTICLE 7 – COMPENSATION

A. **Salaries, Wages, and Longevity:**

1. Conditions relative to and governing wages or salaries and extraordinary pay rates are contained in Addendums "A" and "B" Classification Programs to this Agreement, which are attached and by this reference made a part hereof as though fully set forth herein.
2. Each employee covered hereby will retain their present level received as longevity. For each additional year of service after the effective date of this Agreement, each employee will receive an additional amount of 1% per year, factored into the Pay Matrix.
3. An error on a paycheck shall be paid within the first day in which the City has been notified, with deductions accurate and correct.

B. **Overtime:**

1. Employees required to work in excess of eight hours in any 24-hour period, or in excess of forty hours in any week, will be compensated at the rate of one and one-half times their normal rate of pay for additional time worked.
2. No overtime shall be worked, except in cases of emergency, without the direction of proper authority.
3. Employees shall not be required to suspend work during regular hours to absorb overtime.
4. Overtime shall be paid in 1/10th hour increments. Six minutes equals 1/10th of an hour.
5. Overtime shall be distributed equally to employees as is reasonable and possible.

6. When computing overtime, holidays, sick leave, or vacation time taken during the workweek will be considered as time worked.
7. The Union and City are not in favor of overtime, and nothing in this section shall be construed as encouraging such procedure.

C. Compensatory time:

1. In lieu of receiving overtime compensation an employee may elect to receive credit for overtime hours worked. The election to credit overtime hours to compensatory time must be submitted on the form provided by Human Resources Office at the beginning of each fiscal year.
2. Not more than 120 hours of work may be credited by the City to compensatory time. Compensatory time credited is available for 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 shall cash out any or all of an employee's accumulated compensatory time credits semi-annually with the November 30 and June 30 paydays. Employees shall be provided, by the Human Resources Department, a cash out slip stating number of hours available to cash out, employee must return the completed cash out slip stating the number hours the employee wishes to cash out to the Human Resources Department on the payroll cutoff date prior to the payday to receive pay out of compensatory hours. 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.

D. Call-outs and Standby Time:

1. Each call-out will be for a minimum of two hours at one and one-half times the employee's regular rate of pay. For additional time worked, the employee will be compensated for actual time worked at one and one-half times pay.
2. Standby time will be compensated at \$10.00 per day; however, if standby time is

required on a holiday, the employee will be compensated at \$20.00 per day. For actual time worked, the employee will be compensated at one and one-half times the employee's regular rate of pay.

- E. **Deduction Slips:** Payroll deduction slips will be provided with each payroll warrant.
- F. **Equal Pay for Equal Work:** There will be equal pay for equal work in each job classification.

ARTICLE 8 – HOLIDAYS

- A. **Holidays:** Employees shall be granted the following holidays, without loss of pay. Employee must be in a paid time status prior to or after the holiday.
 1. January 1 - New Year's Day
 2. Third Monday in January - Martin Luther King Day
 3. Third Monday in February - President's Day
 4. Last Monday in May - Memorial Day
 5. July 4 - Independence Day
 6. First Monday in September - Labor Day
 7. Second Monday in October - Columbus Day
 8. November 11 - Veteran's Day
 9. Fourth Thursday in November - Thanksgiving Day
 10. December 25 - Christmas Day
 11. Every day in which a general election is held throughout the State of Montana.
- B. **Holiday or Sunday Work:** Employees required to work on Sunday, a holiday or on a day which is observed in lieu of a holiday, shall be paid at two times their regular rate of pay for all hours worked.
- C. **Scheduled Day Off:** Any employee who is scheduled for a day off on a day which is observed as a legal holiday shall be entitled to receive an alternate day off which shall be scheduled by mutual agreement.

ARTICLE 9 - VACATIONS

- A. **Accrual and Use:** Each full-time employee is entitled to and shall earn annual vacation leave credits from the first full pay period of employment. For calculating vacation leave credits; 2,080 hours (52 weeks x 40 hours) shall equal one year. Proportionate vacation leave credits shall be earned and credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of six calendar months. Persons regularly employed nine or more months each year, but whose continuous employment is interrupted by the seasonal nature of the position, shall earn vacation credits. However such persons must be employed six qualifying months before they can use he vacation credits. In order to qualify, such employees must immediately report back to work when operations resume in order to avoid a break in service. Vacation leave credits shall be earned in accordance with the following schedule:
1. From one pay period through ten years of employment, at the rate of fifteen working days for each year of service;
 2. After ten years through fifteen years of employment, at the rate of eighteen working days for each year of service,
 3. After fifteen years through twenty years of employment, at the rate of twenty-one working days for each year of service;
 4. After twenty years of employment, at the rate of twenty-four working days for each year of service.
- B. **Maximum Accrual:** Vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the last day of any calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess is accrued. If an employee makes a reasonable request to use excess vacation leave before such leave must be forfeited and such request is denied, the excess leave is not forfeited and the City shall ensure that the employee may use the excess leave before the end of the calendar year in which the excess would have been forfeited. Vacation leave shall not accrue during a leave of absence without pay.

- C. **Pay-off:** Unused earned vacation time shall be paid to the employee at his/her regular rate of pay at the time of separation from service.
- D. **Death:** In the event of death of an employee, unused earned vacation time shall be paid to the employee's heirs at his/her regular rate of pay.
- E. **Vacation Dates:** The dates when employee's vacations shall be granted shall be determined by agreement between each employee and the City, with regards to seniority and the best interest of the City; providing, however, the best interest of the City shall include the City's right to ensure that there is an adequate number of equipment operators during vacation periods. Leaves of absence without pay may be used to extend regular vacation.
- F. **During a Holiday:** If a holiday(s) occur(s) during the period in which vacation is taken by an employee, the holiday(s) shall not be charged against the employee's annual leave.
- G. **On a Split Basis:** Vacation time may be taken on a split-vacation basis. Also, all employees have the privilege of taking vacation at any time during the year subject to the provisions of Section F.
- H. **Running Total:** Vacation days shall either be on the check-off stub every pay day with a running total or supplied every third month in writing by the City.

ARTICLE 10 - SICK LEAVE

- A. **Defined:** Sick leave is the necessary absence from duty caused when an employee has suffered illness, injury, disability, exposure to contagious disease, or the necessary absence from duty to receive a medical examination or treatment.
- B. **Accrual of Sick Leave:** A permanent full-time employee earns sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours equals 1 year. Sick leave credits are earned at the rate of 12 working days for each year of

service without restriction as to the number of working days that may be accumulated. Employees must be employed continuously for ninety calendar days before they may use earned sick leave, or are eligible for a lump sum payment for unused sick leave credits. Employees will not accrue sick leave during a leave of absence without pay.

C. Payment of Sick Leave:

1. Employees are entitled by law to receive a lump sum payment upon termination equal to one-fourth of the pay attributed to the unused sick leave accrued after July 1, 1971. The computation of the value of the unused sick leave is based on the employee's salary rate at the time of this termination.
2. Employees transferring between City, County, or State agencies may request the receiving agency to accept their accrued balance of sick leave credits. If the agency agrees to the transfer of sick leave credits, all credits and the lump sum payment shall become the fiscal responsibility of the receiving agency.
3. Employees shall not be credited with sick leave for which they have previously been compensated.

D. Other Sick Leave Provisions:

1. Sick leave charges and credits shall be charged to the nearest full hour.
2. By mutual agreement between the employee and the City, available annual leave credits may be used when an employee is absent and has no sick leave credits available. If the employee has no leave credits available, the employee may request a leave without pay.
3. Denial of Maternity Leave Unlawful:
 - a. It shall be unlawful for the City or its agent:
 - (1) to terminate a woman's employment because of her pregnancy, or
 - (2) to refuse to grant to the employee a reasonable leave of absence for such pregnancy, or
 - (3) to deny to the employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her Employer; provided that the City may require disability as a result of pregnancy to be verified by medical certification that the employee is not

- able to perform her employment duties, or
- (4) to retaliate against any employee who files a complaint with the commissioner under the provisions of this contract; or,
- (5) to require that an employee take a mandatory maternity leave for an unreasonable length of time.
- b. Upon signifying her intent to return at the end of her leave of absence, such employee shall be reinstated to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits unless, in the case of a private Employer, the Employer's circumstances have so changed as to make it impossible or unreasonable to do so.
4. Employees covered by the Workers' Compensation Act are entitled to benefits administered by the Industrial Accident Board when they suffer injury or illness as a result of their employment. An employee may elect to use his or her accrued sick leave credits to supplement his or her Workers' Compensation payments.
5. Any holiday(s) that fall during a period when an employee is on sick leave will not be charged against sick leave credits.
6. An employee shall notify his or her supervisor 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.
7. The City shall provide, at the City Clerk's office, a form to be designated as a leave form. Any employee claiming leave under the sick leave provisions of this contract shall complete and submit to the City a leave form for sick leave claimed.
8. Abuse of sick leave is cause for reprimand or dismissal. Abuse of sick leave occurs when an employee misrepresents the actual reason for charging an absence to sick leave or when an employee uses sick leave for unauthorized purposes. In reprimands or dismissal resulting from this paragraph, the City shall notify the employee, in writing, of such dismissal or reprimand and shall state the reasons therefore.
9. Sick leave days shall either be on the check-off stub every payday with a running total or supplied every third month in writing by the City.

E. Emergency Sick Leave:

1. *Defined:* Emergency sick leave is a necessary absence due to:
 - a. The illness of a member of the employee's immediate family requiring the attendance of the employee; or
 - b. The death of a member of the employee's immediate family.
2. *Immediate Family Defined:* An employee's immediate family includes: spouse, parents, grandparents (including all generations), brothers, sisters, children, grandchildren (including all generations), step relations, household dependents and all the same relations of the employee's spouse in like degree.

ARTICLE 11 - OTHER LEAVE WITH PAY

- A. **Military Leave:** Any permanent employee of the City who is a member of the organized National Guard of the State of Montana or who is a member of the organized or unorganized reserve corps or forces of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard shall be given leave of absence with pay for attending regular encampments, training cruises, and similar training programs, not to exceed fifteen working days per calendar year under military orders properly issued by military authorities. Such absence shall not be charged against other leave credits earned by the employee.
- B. **Jury and Witness Duty:** An employee under proper summons as a juror, or subpoena as a witness, shall collect all allowances and fees payable as a result of such service and forward the fees to the City. An employee may elect to charge his or her juror/witness time against annual leave and in such case will not be required to surrender any fees to the City. An employee shall not be required to remit any mileage or expense fees to the City.
- C. **Funeral of Co-Workers:** Employees shall be granted up to four hours of paid leave to attend the funeral of another employee in the bargaining unit. In the event an employee cannot be released due to the vital nature of an assignment, up to four hours of paid leave will be provided to attend other functions related to the death.
- D. **Union Leave:** Designated Union representatives may with prior approval take a

reasonable leave of absence without pay to employees whenever required in the performance of duties as "duly authorized representative of the Union." "Duly authorized representative" means members of regularly constituted committees and/or officers of the Union, a list to be supplied to the City.

- E. **Personal Leave Day:** Employees shall be granted one shift of paid leave per year, to be used at the discretion of the employee and with the approval of the department head. The personal leave day will be used prior to June 30 of each year and cannot be carried forward.

ARTICLE 12 - LEAVE WITHOUT PAY

- A. **Entitlement:** All employees are entitled to take leave of absence without pay when authorized by the City.
- B. **Requests:** Requests for leave of absence without pay shall be submitted in writing by the employee to his or her immediate supervisor. The request shall state the reason for the leave and the approximate length of time off the employee desires.
- C. **Response:** The City's reply shall be given in writing to the employee not later than five calendar days after receipt of such request.
- D. **Public Service Leave:** Any employee subject to this Agreement elected or appointed to public office shall be entitled to a leave of absence not to exceed one hundred eighty days per year while such employee is performing public service. Any employee granted such leave shall make arrangements to return to work within ten days following the completion of the service for which the leave was granted unless such employee is unable to do so because of illness or disabling injury, certified to by a licensed physician.

ARTICLE 13 - FAMILY AND MEDICAL LEAVE

- A. **Grant and Use:** When an employee is absent from work for a reason that qualifies

under the Family and Medical Leave Act (FMLA), such leave shall be deemed to have begun and the employee will use available sick leave credits. An employee may arrange to use FMLA leave intermittently or to reduce a regular work schedule in the case of family or personal health issues which qualify under the Act, and with the advance permission of the City in the case of birth or adoption.

- B. **Seniority:** Notwithstanding the provisions of the FMLA, an employee who takes FMLA leave to which he or she is entitled shall accrue seniority for all purposes during the period of FMLA leave.
- C. **Transfer:** The City will not transfer an employee taking FMLA leave on an intermittent or reduced schedule basis for planned medical treatment without the permission of the employee.
- D. **Violations:** Any alleged violation of the FMLA shall be submitted in accordance with the provisions of that Act.

ARTICLE 14 - LEAVE AUTHORIZATION & VERIFICATION

- A. **Authorization:** An employee who is absent from duty without prior permission or acceptable reason, shall be subject to deduction of pay and discipline or discharge under the just cause standard.
- B. **Verification:** Any time an employee obtains a written verification of an illness or injury necessitating use of sick leave from a physician, a copy will be provided to the City. Any time an employee requires sick leave in excess of three days, the employee shall, at the City's request, obtain a physician's written verification and provide it to the City. The City will reimburse the employee for any cost thereof not paid by insurance. Whether or not a written verification for use of sick leave is provided or requested, all use of sick leave under this Agreement is subject to the provision concerning abuse.
- C. **Frequent Absences:** The mere existence of leave credits does not in and of itself allow an employee to be absent, and shall not be interpreted to in any way restrict the City

from addressing frequent absences so long as such is in compliance with the just cause provision of this Agreement. Except in cases of emergency, all leaves must be requested and authorized in advance.

ARTICLE 15 - WORKING CONDITIONS

- A. **Work Rules:**
1. The City agrees to furnish each newly hired employee a copy of all existing work rules.
 2. All changes, deletions or additions to work rules affecting terms or conditions of employment will be negotiated by the City and the Union before implemented and shall be prominently posted on all bulletin boards for a period of five consecutive work days. The City may avoid negotiations over proposed changes as described in this Section by notifying the Union in writing of any proposed changes and receiving written consent from the Union to implement any such changes.
- B. **Separation:** Employees who terminate their service will be furnished, upon request, a letter stating their classification and length of service.
- C. **Visits by Union Representative:** Accredited AFSCME representatives shall have full and free access to the workplace during working hours to conduct Union business, with prior notification to the City. The representative will not disrupt the work of any employee without obtaining prior express permission from the City.
- D. **Union Bulletin Boards:** The City agrees to allow the Union to maintain a suitable bulletin board in a convenient place where the employees work. The Union shall limit the posting to notices and bulletins. No posting shall reflect adversely upon the City, the department, or any of its members and shall not be in the nature of political activities.
- E. **Personal Property:** When loss or damage of an employee's personal property, which is of a type reasonably required in the performance of assigned duties, results from employment but not the employee's misconduct, the City will provide reasonable

compensation to the extent the employee could not be made whole by Workers' Compensation or other insurance, as long as the employee reports evidence of such loss or damage to his or her immediate supervisor prior to the end of the shift during which it occurred.

- F. **Safety Equipment:** Safety equipment such as gloves, protecting glasses, dust masks, hard hats, safety vests, flashlights and/or lanterns, rain coats and rubber boots shall be provided. All items will be replaced when worn or damaged. One pair of safety lenses will be provided every two years, if deemed necessary by an optometrist.
- G. **Replacement of Tools:** The City will reimburse the Mechanic(s) for replacement costs of tools in the case of fire, theft, destruction or other loss when such tools are on the inventory of the individual Mechanic's tools previously supplied to the City.
- H. **Description of Heavy Equipment:**
1. Commercial Drivers' License
 2. Front End Loader
 3. Front End Loader/Backhoe
 4. Front End Load / Backhoe / Excavator or Motor grader
- This clause is to differentiate between regular and heavy equipment.
- I. **Supervisors Operating Equipment:** Supervisors will not operate equipment on non-working hours in lieu of call-out of appropriate personnel, except in cases of emergency.
- J. **Immunizations:** The City will pay the cost of the following immunizations: Hepatitis A, Hepatitis B, Influenza, Tetanus/Diphtheria and Pneumococcal Disease. Such immunizations will be administered only through the office of the County Health Nurse.
- K. **Commercial Drivers Licenses:** As a condition of employment you must obtain a CDL within one year of employment and timeframe may be extended at management's discretion. The City shall pay the costs of the physical examinations required of said employees to obtain CDL's. The City will ensure that no out-of-pocket expense will be

accrued by the employee in the renewal of the CDL driver's license. The City will pay for the difference in cost between a regular driver's license and the type of CDL the employee acquires. All employees who possess a CDL are subject to random drug/alcohol testing pursuant to Federal regulations set forth in 49 CFR Part 382, 391, 392 and 395, as amended, and adopted by the City's Drug and Alcohol Testing Policy, June 24, 1997.

- L. **Safety Toed Boots:** The City will pay the price of safety toed boots up to \$200.00 pending receipt. This applies to not more than one pair of boots per year. New employees may receive a \$200 allowance for a second pair of seasonally appropriate boots once they complete their 6-month probation.

- M. **Foreman Pay:** When an employee is assigned by the Department Director the duty of acting as the lead worker, because of the absence of the lead worker, that employee will be paid the foreman wage that the lead worker receives, after that employee has completed that duty for more than one consecutive regular shift. Then that employee will receive that foreman wage for the time he or she has been assigned that duty.

- N. **Clothing Stipend:** Each employee will receive an annual clothing allowance of \$200 on a separate check.

- O. **Gym Membership:** Each employee may receive \$240 annually for a gym membership, billed by the gym facility; management may request proof of attendance.

ARTICLE 16 - HEALTH, SAFETY AND WELFARE

- A. **Industrial Accident Insurance:** The City shall carry Industrial Accident Insurance on all employees. Employees must report in writing all personal injuries received in the course of employment not later than 24 hours from the injury. The City will ensure that First Aid Kits are maintained in each work area.

- B. **Health Insurance:** The City shall contribute toward each participating employee's monthly medical insurance premium that amount which the City Council decides to

contribute to non-organized employees.

- C. **Unemployment Insurance:** The City shall make all the necessary arrangements to ensure that all employees covered by this Agreement will be covered with Unemployment Insurance.
- D. **Safety Committee:** The City will maintain a safety committee in accordance with the Montana Safety Culture Act and shall take reasonable steps to correct identified hazards.

ARTICLE 17 - JOB POSTING

- A. **Posting:** When the City intends to permanently fill a vacant or newly created nonseasonal bargaining unit position, if no individual on layoff status or transfer is available, the City will deliver to the Union Secretary and post the following information for at least five (5) working days on bulletin boards normally used for employee postings:
 - a. The location and title of the position
 - b. The wage
 - c. The minimum qualifications
 - d. The starting date
 - e. Assigned hours and days of work
 - f. The deadline for applying
 - g. If the position is temporary the anticipated length
 - h. With whom the application must be filed
- B. **Transfers:** Any open position will be eligible for voluntary transfer first, if no employee requests transfer in five (5) working days the position will be open to the public. An employee may at any time request in writing a transfer to any open position. In the event the City grants the transfer, the employee will serve a probationary period of 520 actual hours of work in that new position. Should the City determine within the probationary period that the employee has failed to perform satisfactorily, he or she shall be returned to his or her former position and former pay and the newly hired

employee will be laid off.

- C. **Seasonal Employees:** A position shall be deemed "seasonal" if it lasts not longer than four months in a calendar year. Unless the employee was dismissed, the City shall offer a seasonal position to the individual who held that position in the previous year. If the previous employee does not accept the offer by the end of the fifth calendar day of the making of the offer, the position shall be subject to the other sections of this Article. The City will not change permanent positions to seasonal. Union employees will maintain all Union rights, management will set wages through resolution.

- D. **Short-term Employees:** A position shall be deemed "short-term" if it lasts not longer than four months in a calendar year. Unless the employee was dismissed, the City shall offer a short-term position to the individual who held that position in the previous year. If the previous employee does not accept the offer by the end of the fifth calendar day of the making of the offer, the position shall be subject to the other sections of this Article. The City will not change permanent positions to short-term.

- E. **Hiring:** Non-probationary employees in the bargaining unit may apply and shall be given preference for any posted bargaining unit position. The City will recognize seniority, qualifications and work history in awarding positions. The City may hire an external applicant only if he or she is substantially more qualified than any internal applicant, in which case one internal applicant may file a grievance alleging that he or she should have been awarded the position. If the City awards a position to a less senior internal applicant, one more-senior applicant may file a grievance alleging that he or she should have been awarded the position. If qualifications include possession of a high school diploma and if qualifying experience is allowed as a substitute for education, it shall be considered an equivalent. Management may insert new hires into the wage matrix (Addendum A) based on relevant experience; this does change or advance the new hires seniority; longevity ends at year 30 in the matrix regardless of insertion point.

ARTICLE 18 - CONTRACTING & SUBCONTRACTING OF PUBLIC WORK

The Union recognizes that the City has statutory and other rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested in the City. The right to contract or subcontract shall not be used for the purpose or intention of contracting out any public work being performed by the City to undermine the Union, nor to discriminate against any employee because of Union activities.

ARTICLE 19 - GRIEVANCE AND ARBITRATION PROCEDURE

- A. **Grievance:** An employee may file a grievance in accordance with the time limits established herein when he or she feels that a provision of this Agreement has been violated or misapplied and after first attempting to resolve the matter informally with the immediate supervisor. Grievances shall be filed and appealed using the form provided as Addendum C. Allegations of the violation of a statute or regulation shall be processed under the procedure provided by such statute or regulation, and not through this procedure.
- B. **Stewards & Grievance Committee:** Employees selected by the Union as Union representatives shall be known as "Stewards." The name of at least three employees selected as Stewards and the names of other Union Representatives who may represent employees shall be certified in writing to the City by the local Union. The individuals so certified shall constitute the Union Grievance Committee. A Grievance Committee chairman shall be selected or elected by the Union members. Grievance Committee members may process grievances during working hours without loss of pay, with prior notice to the City. Union Representatives from the council or international level may be called in to assist any step during a grievance.
- C. **Time limits are critical.** Departure from the established procedure by the Union or any Union member shall automatically nullify recourse through the grievance procedure. Departure from the established procedure by the City at any step shall allow the grievant or the Union to process the grievance to the next step of the grievance

procedure under the established time limits. Time limits may be modified by written agreement.

D. Procedure:

Step 1: Any employee who feels he or she has a grievance shall, after attempting to settle the matter informally, report it to a Steward not later than 10 calendar days of the event giving rise to the grievance, to a designated Steward. The Steward, with or without the employee present, shall present the grievance to the Mayor or his/her designee not later than five working days from receipt of the grievance. The Mayor or designee shall respond in writing to the Steward not later than five working days from receipt of the grievance.

Step 2: If the Union is not satisfied with the Mayor's response, it shall not later than twenty calendar days submit the grievance in writing to the City Council, which will hear the matter at the next regular meeting for which the matter can be placed on the agenda. The Council shall respond in writing to the Union not later than 10 calendar days following its next regular meeting.

Step 3: Arbitration:

1. If the Union is not satisfied with the response from the City Council, the Union may appeal the grievance to final and binding arbitration by giving the Mayor written notice not later than ten calendar days of receipt of the Council's response. The Union shall petition the Board of Personnel Appeals for a list of seven potential arbitrators to be delivered to the Union and the Mayor or his/her designee. The parties shall then toss a coin to determine the order of striking names, which process shall result in one name being left who shall be the arbitrator. The Union shall notify the Board of the name of the arbitrator chosen.
2. The parties will work with the elected arbitrator to schedule a hearing date, or to arrange for an alternate system of presenting the issue. Each party shall be responsible for its own costs, except if both parties request a transcript in which case they will split the costs, just as the fees and expenses of the arbitrator shall be split between the parties.
3. Not less than 20 calendar days before the arbitration hearing, the arbitrator will decide all arbitrability issues filed to that date.

4. The arbitrator shall have no authority to add to, subtract from or otherwise alter the terms of this Agreement. The arbitrator shall issue his or her decision in writing to each party not later than thirty calendar days of the close of the hearing or the submission of post hearing briefs.
5. Should an employee or the Union file the subject of an active grievance into another arena, the grievance shall be deemed null and void. However, from the point the matter is submitted to arbitration, the Union and employee shall be barred from filing the matter into another arena.

ARTICLE 20 - MANAGEMENT RIGHTS

Management retains the right to manage, direct, and control functions in all particulars except as limited by the terms of this Agreement, or state law. Such rights shall include, but not be limited to:

1. Direct employees;
2. Hire, promote, transfer, assign, and retain employees;
3. Relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and nonproductive;
4. Maintain the efficiency of government operations;
5. Determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
6. Take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
7. Establish the methods and processes by which work is performed.

ARTICLE 21 - SAVINGS CLAUSE

Should any Article, Section, or portion thereof of this Agreement be held unlawful or invalid by a court or board of competent jurisdiction, such decision shall apply only to the specific Article, Section, or portion thereof directly specified in the decision. Upon issuance of such a decision, the parties agree immediately to negotiate a substitute for the invalidated Article, Section, or portion thereof.

ARTICLE 22 - STRIKES AND LOCKOUTS

During the term of this Agreement, the Union agrees that there shall not be any strikes, slowdowns, sympathy strikes, interference in the operations of the City, and the City agrees that there shall not be any lockouts.

ARTICLE 23 - TERM, AMENDMENTS AND MODIFICATIONS OF BASIC AGREEMENT

This Agreement shall be for a period effective as of July 1, 2022, and shall continue in full force and through June 30, 2023 and from year to year thereafter unless either party gives written notice of its desire to modify, amend or terminate this Agreement to the other party not less than sixty days prior to the date of expiration of this Agreement or any of the annual renewal dates.

In Witness Whereof, the parties hereto, acting by and through their respective and authorized officers and representatives, have hereto executed.

FOR THE CITY OF MILES CITY:

FOR THE AMERICAN FEDERATION OF
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO LOCAL NO. 283A

Date Ratified: _____

Date Ratified: _____

Mayor

President, Local 283A

City Clerk

Vice President, Local 283A

Secretary/Treasurer, Local 283A

Field Representative
Montana Council #9 AFSCME AFL-CIO

Executive Director
Montana Council #9 AFSCME AFL-CIO

283A Wage Matrix
ADDENDUM "A"

Years of
Service
Increase 1.01

Grade 1 Laborer, Asst UBC, Dep City Court Clerk
Grade 2 Librarian, Admin Asst, CDL
Grade 3 HEO II, Non-certified Plant Operator, UBC
Grade 4 HEO III, Plant Op Single Test Passed, City Court Clerk
Grade 5 HEO IV
Grade 6 Mechanic, Plant Op 2 Tests Passed
Grade 7 Foreman

| Years of Svc | GRADE | | | | | | |
|-----------------|----------|----------|----------|----------|----------|----------|----------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | \$ 16.75 | \$ 17.28 | \$ 17.80 | \$ 18.32 | \$ 18.85 | \$ 19.42 | \$ 21.73 |
| 2 | \$ 16.92 | \$ 17.45 | \$ 17.98 | \$ 18.51 | \$ 19.03 | \$ 19.62 | \$ 21.94 |
| 3 | \$ 17.09 | \$ 17.62 | \$ 18.16 | \$ 18.69 | \$ 19.22 | \$ 19.81 | \$ 22.16 |
| 4 | \$ 17.26 | \$ 17.80 | \$ 18.34 | \$ 18.88 | \$ 19.42 | \$ 20.01 | \$ 22.38 |
| 5 | \$ 17.43 | \$ 17.98 | \$ 18.52 | \$ 19.07 | \$ 19.61 | \$ 20.21 | \$ 22.61 |
| 6 | \$ 17.61 | \$ 18.16 | \$ 18.71 | \$ 19.26 | \$ 19.81 | \$ 20.41 | \$ 22.83 |
| 7 | \$ 17.78 | \$ 18.34 | \$ 18.89 | \$ 19.45 | \$ 20.01 | \$ 20.62 | \$ 23.06 |
| 8 | \$ 17.96 | \$ 18.52 | \$ 19.08 | \$ 19.64 | \$ 20.21 | \$ 20.82 | \$ 23.29 |
| 9 | \$ 18.14 | \$ 18.71 | \$ 19.27 | \$ 19.84 | \$ 20.41 | \$ 21.03 | \$ 23.53 |
| 10 | \$ 18.32 | \$ 18.89 | \$ 19.47 | \$ 20.04 | \$ 20.61 | \$ 21.24 | \$ 23.76 |
| 11 | \$ 18.50 | \$ 19.08 | \$ 19.66 | \$ 20.24 | \$ 20.82 | \$ 21.45 | \$ 24.00 |
| 12 | \$ 18.69 | \$ 19.27 | \$ 19.86 | \$ 20.44 | \$ 21.03 | \$ 21.67 | \$ 24.24 |
| 13 | \$ 18.88 | \$ 19.47 | \$ 20.06 | \$ 20.65 | \$ 21.24 | \$ 21.89 | \$ 24.48 |
| 14 | \$ 19.07 | \$ 19.66 | \$ 20.26 | \$ 20.85 | \$ 21.45 | \$ 22.10 | \$ 24.73 |
| 15 | \$ 19.26 | \$ 19.86 | \$ 20.46 | \$ 21.06 | \$ 21.66 | \$ 22.32 | \$ 24.97 |
| 16 | \$ 19.45 | \$ 20.06 | \$ 20.66 | \$ 21.27 | \$ 21.88 | \$ 22.55 | \$ 25.22 |
| 17 | \$ 19.64 | \$ 20.26 | \$ 20.87 | \$ 21.48 | \$ 22.10 | \$ 22.77 | \$ 25.47 |
| 18 | \$ 19.84 | \$ 20.46 | \$ 21.08 | \$ 21.70 | \$ 22.32 | \$ 23.00 | \$ 25.73 |
| 19 | \$ 20.04 | \$ 20.66 | \$ 21.29 | \$ 21.92 | \$ 22.54 | \$ 23.23 | \$ 25.99 |
| 20 | \$ 20.24 | \$ 20.87 | \$ 21.50 | \$ 22.14 | \$ 22.77 | \$ 23.46 | \$ 26.25 |
| 21 | \$ 20.44 | \$ 21.08 | \$ 21.72 | \$ 22.36 | \$ 23.00 | \$ 23.70 | \$ 26.51 |
| 22 | \$ 20.65 | \$ 21.29 | \$ 21.94 | \$ 22.58 | \$ 23.23 | \$ 23.94 | \$ 26.77 |
| 23 | \$ 20.85 | \$ 21.50 | \$ 22.15 | \$ 22.81 | \$ 23.46 | \$ 24.17 | \$ 27.04 |
| 24 | \$ 21.06 | \$ 21.72 | \$ 22.38 | \$ 23.03 | \$ 23.69 | \$ 24.42 | \$ 27.31 |
| 25 | \$ 21.27 | \$ 21.94 | \$ 22.60 | \$ 23.26 | \$ 23.93 | \$ 24.66 | \$ 27.59 |
| 26 | \$ 21.48 | \$ 22.15 | \$ 22.83 | \$ 23.50 | \$ 24.17 | \$ 24.91 | \$ 27.86 |
| 27 | \$ 21.70 | \$ 22.38 | \$ 23.05 | \$ 23.73 | \$ 24.41 | \$ 25.16 | \$ 28.14 |
| 28 | \$ 21.92 | \$ 22.60 | \$ 23.28 | \$ 23.97 | \$ 24.65 | \$ 25.41 | \$ 28.42 |
| 29 | \$ 22.13 | \$ 22.83 | \$ 23.52 | \$ 24.21 | \$ 24.90 | \$ 25.66 | \$ 28.71 |
| 30 | \$ 22.36 | \$ 23.05 | \$ 23.75 | \$ 24.45 | \$ 25.15 | \$ 25.92 | \$ 28.99 |

Stipends: \$0.35/hour each

Pool license, Arborist or Pesticide license, HEO Competent Operator, Distribution license for non-plant operator/PUD, State Library Certification, Mechanic's Tool Stipend.

Differentials: Water/Waste evening and weekend shift differential \$1/hour.

Addendum “B”

Heavy Equipment Operator Program

The City’s Heavy Equipment Operator Program recognizes previous equipment experience, provides for the training of new operators and includes a means of objectively evaluating all operators. HEO qualification into 4 equipment categories as follows:

- Commercial Driver’s License
- HEOII Front End Loader
- HEOIII Front End Loader / Backhoe
- HEOIV Front End Loader / Backhoe / Excavator or Motor grader

There will be a training and evaluation form (example attached) associated with each piece of equipment. The form will include the most common tasks a city operator will be required to perform throughout the year under normal working conditions for each piece of equipment. The form will be used to document training, note deficiencies, make recommendations and validate promotions to each operator category.

Once a qualified person/trainer has verified that an operator can safely and competently perform all the required tasks for a piece of equipment, they will recommend to the applicable Department Director that the operator be promoted to the appropriate HEO category.

The training and documentation part of the program will be implemented to provide a fair and objective means of evaluating abilities, training and provide a means of documenting training as required by the Montana Department of Labor and Industry.

Addendum "B"
Heavy Equipment Operator Program
Evaluation Sheet
Front End Loader

Operator Name: _____

| |
|---|
| Initial Training |
| Read Operators Manual |
| Location & Function of Safety Devises/Equipment |
| Walk Around Inspection |
| Critical Wear Areas |
| Daily Lubrication / Maintenance Checks |

| Competent | | Competent Operator | |
|-----------|----|--------------------|-----------|
| Yes | No | Date | Signature |
| | | | |
| | | | |
| | | | |
| | | | |

Specific Task Training

| |
|---|
| Push up spoils piles, sweepings, snow piles etc. |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|----------------------------|
| Load Trucks |
| Dirt Bucket |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|----------------------------|
| Snow bucket |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|--|
| Operate around asphalt recycler preparing asphalt |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|--|
| Cut, level, backdrag and prep with bucket |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|--|
| Operate snow blower / Forks / Stinger |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

| |
|----------------------------|
| Cut snow & Ice |
| Needs more training |
| Competently performs tasks |
| Hours this session |
| Comments |

| | | | | |
|-------------|--|--|--|--|
| Hrs. | | | | |
| | | | | |

HEO Certification

Operator's Signature _____
 Competent Operator/Trainer Signature _____
 Department Director Signature _____

Date: _____
 Date: _____
 Date: _____

Addendum "C"
Grievance Report Form

GRIEVANCE REPORT FORM

Miles City, MT

283-A Bargaining Unit

Page 1 of 2

Grievant: _____

Date of Grievance: _____

STATEMENT OF GRIEVANCE:

A. _____

Contract Provision Violated:

B. _____

Contract Provision Violated:

C. _____

Contract Provision Violated

use additional sheets if necessary

ACTION OR RELIEF REQUESTED: {A, B & C correspond to same above}

A. _____

B. _____

C. _____

Grievant's Signature: _____

Date given to Mayor: _____

MAYOR'S RESPONSE:

A. _____

B. _____

C. _____

Mayor's Signature: _____

Date given to Grievant: _____

Addendum "C"
Grievance Report Form

Grievant: _____

Date of Grievance: _____

GRIEVANTS RESPONSE:

A. _____

B. _____

C. _____

Grievant's Signature: _____

Date given Council Chair: _____

COUNCIL'S RESPONSE:

A. _____

B. _____

C. _____

Council Chair's Signature: _____

Date given to Grievant: _____

MEMORANDUM of UNDERSTANDING (MOU)
Between the City of Miles City ("City") and AFSCME Local 283A ("union")

Re: Alternative Scheduling for Workers

Purpose: At the discretion of the City and under mutual agreement with the union, the City of Miles City may allow employees to work four ten hour shifts as opposed to five eight hour shifts in a given week under the following conditions.

1. An employee who elects to work 10 hour shifts must do so for a minimum period of 2 months, beginning at the beginning of, and ending at the end of scheduled pay periods.
2. A minimum of 2 employees per department/section must make the selection of 10 hr work week in order to have at least 2 employees on duty at the same time for reasons of safety and productivity.
3. The scheduling supervisor will determine whether the 10 hr work week per employee will be Monday-Thursday or Tuesday-Friday in order to ensure crew coverage Monday-Friday of each week.

This MOU modifies the current Collective Bargaining Agreement (CBA) language, Article 6 – Hours of Work, Section A (FY2020-2022):

- A. **Workday:** A standard workday shall consist of eight hours continuous, except for a normal lunch period not to exceed one hour, in any 24-hour period.

TO

- A. **Workday:** A standard workday shall consist of eight hours continuous in a five-day work week, or ten hours continuous in a four-day workweek, except for a normal lunch period not to exceed one hour, in any 24-hour period.

Scheduling either 4/10s or 5/8s remains at the discretion of the City or acting management in accordance with the CBA.

Overtime: It is understood that while working four ten-hour shifts, overtime is calculated after ten hours of time worked in an individual scheduled day.

Holidays: An employee who is scheduled for a day off on a day which is observed as a legal Holiday shall be entitled to receive an alternate day off which shall be scheduled by mutual agreement. This would amount to ten hours of comp time if the employee is working ten-hour shifts during the week in question.

As per union contract work on Saturday and Sunday would be calculated at the overtime rate specified by the CBA. If an employee is called into work during a weekday that is the scheduled day off in a four ten-hour work week, the employee will be paid at one and a half times the employees pay scale.

Water Treatment Plant: It has been established that the work period for employees at the Water and Wastewater Plant is a Calendar Week (Sunday through Saturday) and that Sunday will not be at Holiday pay. For overtime purposes during a work week in which the employee is working ten-hour shifts:

- The fifth day after the start of an employee's shift shall be at time and one-half pay;
- The sixth day shall be paid at two and one-half times the employee's pay scale, if the employee is required to work on those days;
- The seventh day would be calculated at one and a half times the employees pay scale.

This agreement is reached mutually between both entities and can be dissolved by mutual agreement at any time.

[Signature] 1-25-22
For the City of Miles City / Date

[Signature] 25 Jan 2022
For the Union / Date

RESOLUTION NO. 4466

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF TRUSTEES

WHEREAS, the City has established a free public library, the Miles City Public Library (“Library”) for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City (Miles City Code 14-1, 14-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City (§ 22-1-309, MCA);

WHEREAS, on September 2, 2020, the City, and the Montana State Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO Local No. 283A (“Union”) entered a Collective Bargaining Agreement (“CBA”), in which Library employees are considered member employees. The CBA is effective July 1, 2021 through June 30, 2022;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law, “the promotion of harmonious relations” between the City and Union and “the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment”;

WHEREAS, pursuant to § 22-1-309(3), MCA, the Library Board is empowered to contract with the City to provide certain library services, including personnel management; and

WHEREAS, to simplify annual budget appropriations to the Library, the parties desire to implement a procedure whereby the City funds all Library personnel costs and the Library Board funds, or is responsible for funding, all other Library operations.

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

1. Service agreement and memorandum of understanding between the city of Miles City and the Miles City Library Board of Trustees, attached hereto as Exhibit “A”, and made a part hereof, is hereby approved and adopted by the Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and to bind the City of Miles City thereto.

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and to bind the City of Miles City thereto.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY,
MONTANA, THIS 12TH DAY OF JULY, 2022.**

John Hollowell, Mayor

ATTEST:

Mary Rowe, City Clerk

EXHIBIT "A"

**SERVICE AGREEMENT AND
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF
TRUSTEES**

This Service Agreement and Memorandum of Understanding ("Agreement") is entered into this 1ST day of July 2022 between the City of Miles City, Montana, a municipal corporation of the State of Montana (hereafter, "City"), and the Miles City Library Board of Trustees (hereafter, "Library Board"), together referred to hereafter as "the parties".

RECITALS

WHEREAS, the City has established a free public library, the Miles City Public Library ("Library") for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City (Miles City Code 14-1, 14-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City (§ 22-1-309, MCA);

WHEREAS, on September 2, 2020, the City, and the Montana State Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO Local No. 283A ("Union") entered a Collective Bargaining Agreement ("CBA"), in which Library employees are considered member employees. The CBA is effective July 1, 2021 through June 30, 2022;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law, "the promotion of harmonious relations" between the City and Union and "the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment";

WHEREAS, pursuant to § 22-1-309(3), MCA, the Library Board is empowered to contract with the City to provide certain library services, including personnel management; and

WHEREAS, to simplify annual budget appropriations to the Library, the parties desire to implement a procedure whereby the City funds all Library personnel costs and the Library Board funds, or is responsible for funding, all other Library operations.

UNDERSTANDING OF THE PARTIES

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. PURPOSE: The purpose of this Agreement is to provide stability and a framework of the roles, responsibilities and relationships of the City and Library Board as it relates to the efficient operation and management of the Library for the benefit of the community.

EXHIBIT "A"

2. TERM: This Agreement shall commence for the fiscal year beginning July 1, 2020 and shall continue through and include June 30, 2022. The Agreement will automatically renew for each subsequent fiscal year unless one party provides written notice to the other at least ninety (60) days prior to the end of the term, of its intention to not renew the same.

3. OBLIGATIONS OF THE CITY:

3.A. Personnel Costs: As the City's contribution to support the Library, the City agrees to budget for all Library personnel costs for up to 4.75 FTE's for position as described in the CBA.

3.A.1. "Personnel costs" include:

- Wages as provided by the current CBA and, in the case of the Library Director, the annual salary approved by the Library Board
- State and Federal withholding taxes;
- Workers' compensation contributions;
- Overtime;
- Health insurance contributions;
- PERS contributions;
- Unemployment contributions;
- Retirement/termination buy out of accrued sick/vacation leave.

3.A.2. FTE Positions: The 4.75 FTE positions shall include the Library Director and those positions identified in the CBA.

3.B. Insurance Coverage: The City agrees to provide property insurance coverage for the Miles City Library building and contents as well as liability and Employment Practices Liability Insurance coverage, workers' compensation and health insurance benefits under the City's insurance policies with the Montana Municipal Interlocal Authority.

3.C. Fiscal Agent: All public funds for the Library will be managed by the City. The City shall provide all financial administration and record keeping of all Library funds. Financial records of all fiscal activity shall be kept at by the City.

4. OBLIGATIONS OF THE LIBRARY BOARD:

4.A. Funding Library Operations: The Library Board agrees it will be responsible for providing funding for all Library operations and building maintenance through diversified funding, except for the personnel costs paid by the City.

4.B. Annual Budget: The Library Board will prepare an annual budget for approval by the City in accordance with state law (§ 22-1-309(6), MCA).

4.C. Open Meeting Laws: The Library Board agrees to comply with all opening meeting laws when meeting. This obligation shall include, but is not limited to, making certain

EXHIBIT "A"

that proper meeting notice occurs and that minutes from such meetings are taken and properly maintained.

4.D. Laws and Regulations: As a tax-supported public library, the Library Board must be aware of and ensure that all laws and regulations which relate to public libraries are properly followed.

5. OPERATION OF THE LIBRARY:

5.A. Library Board Authority: The Library Board shall have the authority to determine the policy for the operation and care of the Library; prepare budgets; authorize expenditures; determine the selection of materials; and negotiate contracts and agreements as set forth in § 22-1-309, MCA. The Library Board agrees to work with the City cooperatively to discuss modifications or changes that will facilitate the efficient operation of the Library for the benefit of the public. The Library Board further agrees to provide the City with timely notice of all policy modifications or changes, including providing any written documentation which accompanies and/or supports such modifications or changes.

5.B. Execution Contracts/Agreements: The Mayor shall execute all contracts and agreements for the Library.

5.C. Personnel Management: Pursuant to § 22-1-309(3), MCA, the Library Board agrees to delegate personnel authority as found in § 22-1-310, MCA, to the City as follows:

5.C.1. Library Director.

5.C.1.a. Appointment. Pursuant to the City's Code, Section 14.5 and existing City Policies and Procedures, the Library Board shall have the authority and responsibility for hiring, appointment, termination, and disciplinary proceedings of the Library Director. Appointment and/or termination of the Library Director, however, will be made in consultation with and be confirmed by the City.

5.C.1.b. Administrative status. The Library Director shall have the administrative status of a City department head and shall report to and be supervised by the Library Board.

5.C.1.c. Execution of Library operation and policies. The Library Director shall manage the operations of the Library and be responsible to the Library Board for the execution of the Library Board's policies as authorized by Section 5.A. above.

5.C.1.d. Salary. The Library Board and Mayor will jointly fix the Library Director's salary and any annual adjustments based on current City Personnel Policy and Procedures related to salary.

5.C.2. All Other Library Employees.

EXHIBIT "A"

5.C.2.a. Pursuant to the City's Code, Section 2-107, the current CBA and existing City Policies and Procedures, the City shall have authority and responsibility for all personnel matters including but not limited to hiring, termination, and disciplinary proceedings, rates of pay, hours of work, leave, fringe benefits, employee safety, and other conditions of employment for Library employees.

5.C.2.b. Supervision/management. The Library Director shall supervise and manage all Library employees, in collaboration with the Mayor and the Library Board.

5.C.2.c. Library staffing. Any increase or decrease in working hours or changes in staffing levels (FTE's) must be mutually agreed upon.

5.C.2.d. Hiring freeze. In the event a Library employee retires or resigns, triggering a buy-out of that employee's vacation and/or sick leave, a hiring freeze for that position may be implemented by the City for a period equivalent to offset the cost of such buy out, not to exceed six (6) months.

5.D. Building. The Miles City Library building is owned by the City. The City agrees to provide day-to-day maintenance and general repair for the building. The Library Board agrees that any rental or use of Library facilities by other entities, organizations, groups, and/or individuals, will comply with the City's process.

6. INDEMNIFICATION/HOLD HARMLESS: The City and Library Board agree to a mutual indemnification in which each party will indemnify the other for the negligent acts of its employees, board members, agents and/or subcontractors. Each party shall indemnify, hold harmless and defend the other party, at that party's own expense, against any and all claims made for any accident, injury, or damage that occurs in, on, or about the Library that is caused by an act or omission of that party's employee, board member, agent and/or subcontractors.

7. MODIFICATIONS: Any modifications sought to be made to this Agreement shall be agreed to by both parties and will be memorialized in writing, signed by both parties.

8. NOTICE: Any notice required or permitted under this Agreement shall be deemed sufficiently given or serviced if sent by mail or hand delivered to:

| | |
|-------------------------|---------------------------|
| City of Miles City | Miles City Public Library |
| Mayor | Library Board of Trustees |
| 17 S 8 th St | 1 S 10 th St |
| Miles City, MT 59301 | Miles City, MT 59301 |

Either party may, by written notice at any time during the term of this Agreement, designate a different address to which notices hereunder shall subsequently be sent. Written notice hereunder shall be deemed to have been given as of the time the same is deposited in the United States mail.

9. TIME OF ESSENCE: Time shall be of the essence of this Agreement and all the

EXHIBIT "A"

terms, covenants and conditions hereof shall be performed at or before the times herein set forth. Any forbearance on the part of either party in the enforcement of the terms and conditions of this Agreement shall in no way be construed as a waiver of default thereof or waiver of the obligatory effect of such provision.

10. CONSTRUCTION AND BINDING EFFECT: This Agreement shall be construed under the laws of the State of Montana and shall be binding upon and inure to the benefit of the respective parties, their heirs, executors, successors and assigns.

11. SEVERABILITY: If any term of this Agreement should hereafter be declared or becomes void or unenforceable by judicial decree or operation of law, all other terms of this Agreement shall continue to be effective unless the void or unenforceable terms materially defeats the manifest intent and purpose of this agreement.

12. BINDING: This Agreement shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this Agreement, and the parties hereto approve and execute this Agreement.

CITY OF MILES CITY

John L. Hollowell, Mayor

* APPROVED AS TO FORM:

City Attorney

* The City Attorney has provided advice and approval of the foregoing document language on behalf of the City of Miles City, and not on behalf of other parties or entities. Review and approval of this document by the City Attorney was conducted solely from a legal perspective and for the exclusive benefit of the City of Miles City. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

MILES CITY LIBRARY BOARD OF TRUSTEES

Bert Pezzarossi, Chairperson

Kim Feil, Trustee

EXHIBIT "A"

Shirley Lund, Trustee

Linda Christiansen, Trustee

Nancy Larsen, Trustee

city council an mayor.

I am writing you this letter asking for an extension on
the parcel leases that are currently held by Raymond M. Jenet
while the transfer of the lease to David P. Jenet.

Thank Very much

David P. Jenet