

CITY OF KALISPELL
PERSONNEL
POLICY
HANDBOOK

Adopted by the Kalispell City Council
Resolution 5468
January 3, 2011

RESOLUTION NO. 5468

A RESOLUTION REVISING RESOLUTION 4832, ADOPTING A REVISED PERSONNEL POLICIES HANDBOOK FOR ALL CITY EMPLOYEES AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is in the best interests of the citizens of the City of Kalispell, and employees of the City of Kalispell, that all policies relating to persons working for the City of Kalispell be placed in a Personnel Policies Handbook, and

WHEREAS, on May 2, 1994, the City Council adopted Resolution No. 4150, adopting a Personnel Policies Handbook for all City employees, and

WHEREAS, on June 19, 2000, the City Council adopted Resolution No. 4561, revising the Personnel Policies Handbook, and

WHEREAS, on September 15, 2003, the City Council adopted Resolution No. 4832, revising the Personnel Policies Handbook, and

WHEREAS, the City Manager requests that the Personnel Policies Handbook be revised to reflect changes to State and Federal law and to address other current personnel issues.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

SECTION I. That the Personnel Policies Handbook dated September, 2003 is hereby amended.

SECTION II. That the Revised Personnel Policies Handbook presented to the City Council on November 15, 2010, is hereby adopted as the official Personnel Policies Handbook for all employees of the City of Kalispell, Montana.

SECTION III. This Resolution shall become effective immediately upon its passage by the City Council.

PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF KALISPELL, THIS 3RD DAY OF JANUARY, 2011.



Tammi Fisher
Mayor

ATTEST:



Theresa White
City Clerk

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SECTION 10-1

SUBJECT: PURPOSE AND DISCLAIMERS

I. PURPOSE:

- a. Purpose of Personnel Policies and Procedures
- b. Disclaimers
- c. Organization of Personnel Policies and Procedures

II. STATEMENT OF POLICY:

- a. General Purpose: These policies are enacted by the City of Kalispell in order to further the following goals:
 - i. To provide a uniform system of personnel administration throughout the City service.
 - ii. To ensure that recruitment, selection, placement, promotion, retention and separation of City employees are based upon employees' qualifications and fitness, and are in compliance with federal and state laws.
 - iii. To assist managers in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout the City.
 - iv. To promote communication between directors, supervisors, and employees.
 - v. To ensure, protect and clarify the rights and responsibilities of employees.

III. SCOPE:

- a. Except for wages, benefits and conditions of employment, these Personnel Policies and Procedures shall apply to all City employees except elected officials and independent contractors. In the event of conflict between these rules and any collective bargaining agreement, personnel services contract, City ordinance, Police Commission rule, or state or federal law, the terms and conditions of that contract, rule or law shall prevail. In all other cases, these policies and procedures shall apply.

IV. In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

V. THE CITY SPECIFICALLY RESERVES THE RIGHT TO REPEAL, MODIFY OR AMEND THESE POLICIES AT ANY TIME, WITH OR WITHOUT NOTICE. NONE OF THESE PROVISIONS SHALL BE DEEMED TO CREATE A VESTED CONTRACTUAL RIGHT IN ANY EMPLOYEE NOR TO LIMIT THE POWER OF THE CITY MANAGER OR COUNCIL TO REPEAL OR MODIFY THESE RULES.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution #4832 - September 15, 2003

SECTION 10-2

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY (EEO)/AMERICANS WITH DISABILITIES ACT (ADA)

I. PURPOSE

The City of Kalispell is an equal opportunity employer. The City of Kalispell shall comply with all relevant federal and state laws, to include rules and regulations put forth by the Equal Employment Opportunity Commission, (EEOC) and all relevant provisions of the Americans with Disabilities Act, (ADA).

II. STATEMENT OF POLICY

The City of Kalispell ensures equal employment opportunity regardless of race, religion, color, creed, national origin, sex, marital status, familial status, political belief, age, or mental/physical disability, (as defined by the ADA), unless such disability effectively prevents the performance of the essential duties required of the position and which are bona fide occupational qualifications that cannot be accommodated without undue hardship to the City of Kalispell.

- III. Applicants and employees shall not be discriminated based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment and will not acquire genetic information.
- IV. If an employee believes that they have been subjected to discrimination and/or harassment, based upon any of these factors, they should immediately contact the Director of Human Resources for the City of Kalispell and pursue corrective action.
- V. If the employee feels they need to resolve the problem by filing a grievance, they should pursue action through the Grievance Procedure stated within this manual.
- VI. If the supervisor or department head is the person who is responsible for the harassment, or if the harassment has been reported to the supervisor or department head and no action has been taken, then it should be reported to the Director of Human Resources or the City Attorney's Office.
- VII. If an applicant for a position with the City of Kalispell believes that they have been subject to discrimination, including harassment, based on the factors as noted above, they are to contact the Director of Human Resources for the City of Kalispell and place such a complaint. Applicants are encouraged to place the complaint "in writing" noting why they believe discrimination or harassment has taken place. The Director of Human Resources will review the complaint along with the City Attorney's office.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 – September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 10-3

SUBJECT: ADMINISTRATION OF EMPLOYEE PERSONNEL RECORDS

I. PURPOSE:

To establish procedures and responsibilities for the maintenance of employee Personnel Records.

II. STATEMENT OF POLICY:

- a. The City of Kalispell maintains records on every employee related to their employment with the City of Kalispell. The employee's personnel file will contain information such as employment application/resume or cover letter, performance evaluations, training records, commendations and awards, disciplinary records, and resignation/termination records. Such information will be obtained from the employee or from others. Any information obtained for EEOC compliance (Form EEO-4) and/or any medical information will be kept in separate, confidential files and accessed only on a need-to-know basis as authorized by the City Manager or the Human Resources Director and/or their designee so long as it does not violate any laws, regulations or policies set forth in this manual.
- b. Personnel files are confidential and only accessible to others on a need-to-know basis for personnel action. Upon request to the City Manager or the Human Resources Director and/or their designee with the Human Resources Director and/or their designee present, employees may inspect and make copies of their personnel records. Employees should contact the Human Resources Director and/or their designee to establish a convenient review time.

EFFECTIVE: Immediately

DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

Last revised: Resolution 5468 - January 3, 2011

SECTION 10-4

SUBJECT: UNION RIGHTS

I. PURPOSE:

To establish a policy for union rights and procedures for union activities.

II. STATEMENT OF POLICY:

a. The City recognizes the following unions as the exclusive bargaining representatives for the designated employees of the following bargaining units:

- i. American Federation of State, County, & Municipal Employees, Local No. 256
- ii. International Association of Firefighters, Local No. 547
- iii. Kalispell Police Association

III. All City employees have a right to belong to an appropriate bargaining unit unless they are exempt as defined by law or exclusion by union contracts. Additional conditions of membership are described in each labor contract.

IV. Each bargaining unit separately negotiates contracts for its employees with the City. Wages, benefits and conditions of employment of union employees will be provided as specified in the respective labor agreement. Employees are not granted time off with pay to perform union activities unless specifically provided for in the labor agreement. City equipment and facilities are not to be used for union activity unless specifically provided for in the labor agreement, unless approved by the City Manager on a case-by-case basis.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: May 9, 2000

SECTION 20-1

SUBJECT: HARASSMENT

I. PURPOSE:

To provide a working environment where employees will be employed, promoted and disciplined on the basis of merit and free from harassment.

II. STATEMENT OF POLICY:

- a. It is the policy of the City of Kalispell that harassment will not be tolerated. Employees are expected to act in a professional, cooperative and respectful manner to all contacts, despite differences.
- b. **Harassment** is unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, pesters, annoys or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, degrading, or hostile environment, or interferes with or adversely affects a person's work performance.
- c.
- d. **Sexual harassment** may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. The following actions are strictly prohibited:
 - i. Occasions when such conduct, either explicitly or implicitly, is a term or condition of employment
 - ii. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals
 - iii. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
 - iv. Examples of sexual harassment includes **Verbal Harassment** (sexually explicit jokes, comments, innuendoes, etc.), **Physical Harassment** (unwelcome patting, hugging, pinching, grabbing, assault, etc.), **Power Plays** (using position of authority to coerce sexual favors or sexually harassing conduct), or **Non-verbal/Mental Harassment** (sexually explicit or suggestive posters, unwelcome repeated requests for dates, gesturing, etc). "Sexually suggestive" is defined as any depiction of "a person of either sex who is not fully clothed and/or who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body."
- e. **Hostile Working Conditions** includes behaviors that are inappropriate and unacceptable in the workplace. Inappropriate and Unacceptable Behavior is bad behavior that goes beyond incivility, yet does not meet the legal definition of Hostile Work Environment (HWE). Examples of Inappropriate and Unacceptable Behavior that create Hostile Working Conditions:

- i. Demeaning, harassing, belittling others; name-calling
- ii. Emotional tirades, tantrums, and displays of anger
- iii. Humiliating, intimidating, threatening others
- iv. Gossiping, spreading rumors about and damaging a co-worker's reputation
- v. Refusing to follow authority without very good reasons
- vi. Being argumentative with no good reason except for trying to start a fight
- vii. Swearing or using obscene language in very public places without regard to the reactions of others

f. **Hostile Working Environment** is offensive behavior that is:

- i. Objectively intimidating, threatening, abusive, humiliating and behavior that is either very severe or is repeated frequently and / or is pervasive
- ii. Significantly alters the working conditions and unreasonably interferes with work performance
- iii. Affects a term or condition of employment and / or causes harm.
- iv. Directed at the person's gender, race, color, age, religion, national origin, or disability.

g. Any employee who perceives a conversation or event as harassment, whether the employee is involved or merely observed, should explain to the offender in a calm but firm manner that the action is perceived as inappropriate and that the employee wishes the behavior to stop. Should the harassment continue, the employee is encouraged to report the activity to their supervisor, the Human Resources Director, the City Manager and/or their designee, or in the event these individuals are involved; to a member of the City Attorney's Office.

h. The harassment allegation will be promptly investigated with due regard for confidentiality by the Human Resources Director, the City Manager and/or their designee, or the City Attorney's Office. The results of the investigation and the nature of the disciplinary action will be communicated to the complainant and the offender.

i. Either the offended employee or the offender may appeal the decision through the normal grievance procedures if either submits a written statement concluding the findings were incorrect or the disciplinary action inappropriate. City of Kalispell will not tolerate retaliation against an employee who makes a good faith report of alleged sexual harassment or participates in a sexual harassment investigation. A follow-up review will be completed within 6 months after harassment allegations have been confirmed to ensure the sexual harassment has discontinued and all parties involved are not subjected to retaliatory behaviors.

j. Harassment does not include the conduct or actions of supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote positive performance.

III. DISCIPLINARY ACTION:

An employee who harasses another employee or member of the public may be subject to the full range of disciplinary action, including discharge.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 9, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-2

SUBJECT: SCHEDULING DAYS/HOURS OF WORK

I. PURPOSE:

To establish a policy setting uniform days/hours of work for employees.

II. STATEMENT OF POLICY:

- a. This section establishes guidelines for supervisors in scheduling the days and times employees are to be at their jobs in order to meet the needs of the City and to assure compliance with the Fair Labor Standards Act and appropriate state laws and regulations.
- b. Except as otherwise provided by labor agreements, the normal work week shall consist of 40 working hours in a seven day period commencing on Sunday at 12:01 a.m. and continuing to Saturday at 12:00 midnight.
- c. Except as otherwise provided by labor agreements, the normal work day is eight hours, with an unpaid lunch period of one-half to one hour. Employees are expected to be at their work locations and ready to begin work at the beginning of their work schedule. Lunch period will be scheduled to allow for continuous staffing of all offices with at least one person. It may be necessary for some departments to have 24-hour coverage in the unit, making it necessary to schedule longer shifts.
- d. Department heads will establish days and hours, with exception for the preceding, for each employee under his/her supervision with the approval of the City Manager.
- e. The standardization of working hours is necessary to provide:
 - i. Continuity in access by and service to the citizenry.
 - ii. Facilitation of teamwork.
 - iii. Facilitation of supervisory assistance.

- III. Individual requests for adjustment of working hours for personal reasons must be evaluated in light of the effect on the criteria enumerated in items 1-3 above.
- IV. Advance notice of anticipated tardiness is expected; notice of unavoidable tardiness is expected when possible. Failure to do so will be construed as an unexcused absence and subject to disciplinary action. Tardiness must be made up during the pay period in which it occurs.
- V. Notification by another employee, friend or relative is not considered proper except in any emergency situation where the employee is physically unable to make the notification.
- VI. Daily attendance records will be maintained by each department; including date and time absent and reason for absence. Attendance may be considered in determining promotions, transfers, satisfactory completion of probationary or trial periods, and continued employment with the City.
- VII. Frequent tardiness or other attendance irregularities shall be cause for disciplinary action.
- VIII. Hours for part-time and certain employees may vary from the normal office hours noted above due to the nature of their duties and will be determined by the appropriate department head, with concurrence of the City Manager.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-3

SUBJECT: OVERTIME/COMPENSATORY TIME

I. PURPOSE:

To provide for overtime/compensatory time compensation for employees working in excess of forty hours per week.

II. POLICY:

- a. Only employees considered "non-exempt" by FLSA (The Fair Labor Standards Act) are paid 1-1/2 times their "regular rate" for actual hours worked in excess of 40 hours in any workweek. Workweek begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday.
- b. Overtime is based on actual hours worked. Time off for sick leave, vacation or any leave of absence will not be considered hours worked for the purposes of overtime calculations.
 - i. All overtime must receive prior approval from the supervisor. Employees who continually work overtime without receiving prior authorization from their Department Head may be subject to disciplinary action, up to and including termination.
 - ii. If a "non-exempt" employee desires compensatory time instead of overtime pay, he/she must request it in writing on a Payroll Change Notice.
 - iii. Supervisors must not accept voluntary overtime from "non-exempt" employees without paying overtime or granting compensatory time. In other words, if a supervisor is aware that a "non-exempt" employee is voluntarily working overtime, the supervisor must direct the employee to stop working or be willing to authorize the overtime.
 - iv. A "non-exempt" employee who is requested to work over 40 hours in a week must be paid 1-1/2 times his/her regular rate. Compensatory time will be allowed at the rate of 1-1/2 hours for each hour worked. The union contract will be followed for union employees working on Sundays, etc.
 - v. All records of compensatory time worked, compensatory time taken and overtime worked by "non-exempt" employees must be attached to the Time Report for the period the hours were worked or taken off.
 - vi. Compensatory time may be accrued, taken or cashed in at the discretion of the City. Employees may accumulate up to 240 hours of compensatory time, with the exception of public safety employees, or seasonal who may accumulate a maximum of 480 hours. (Compensatory time policy is under review and subject to change.)
 - vii. If the employee's work regularly involves the activities included in the 480-hour limit, the employee will be covered by that limit. A public agency

cannot utilize the higher cap by simple classification or designation of an employee. The work performed is controlling. Assignment of occasional duties within the scope of the higher cap will not entitle the employer to use the higher cap.

- viii. Supervisors may require that compensatory time be taken at a time so as not to disrupt the operation of the unit. Supervisors may require employees to take overtime in lieu of compensatory when over the maximum hours. Compensatory time will be paid if a balance exists at the time an employee terminates, or at a time agreed upon by the supervisor and employee, subject to the City Manager's approval.

III. LIMITATIONS:

- a. This policy shall not apply to employees whose labor agreement provides for a different work period, specifically police officers and firefighters.
- b. This policy does not apply to executive, professional, administrative, and all other employees who are exempt from the FLSA, unless otherwise provided by labor agreement.
- c. The Human Resources Department reviews what an employee does and compares the duties and responsibilities to the test provided by the Fair Labor Standards Act (FLSA) and Montana Wage and Hour Laws.

IV. OVERTIME ON SUNDAY:

- a. When overtime is ordered on a Sunday and the employee is not scheduled to work, the employee will be compensated at two times his/her regular rate of pay. All other hours worked over 40 in a week will be paid at 1-1/2 times the employee's regular rate. "Sunday" is the only double-time day. No other day will be considered as a "Sunday" or a double-time.

V. HOLIDAYS AND OVERTIME ON HOLIDAYS:

- a. Holiday Pay for Holiday Worked:
 - i. A holiday is defined as being any 8-hour period of scheduled work time identified by city policy. When an employee is ordered to work on a city-recognized holiday, he/she will be paid straight time for all the hours worked. In addition, straight time will be paid for eight hours to cover the normal day which has been identified as a holiday.
- b. Scheduled Holidays for Employees on Shifts Longer Than 8 Hours:

- i. For those employees who are on a shift which is longer than eight hours, holiday time will only be paid for eight hours. The hours over eight are accounted for by either working or taking vacation leave.
- c. Part-time, Seasonal and Temporary employee's hours will be pro-rated.
- d. An employee will be allowed to take a holiday or another day if the holiday falls on an employee's regular day off. Scheduling of this day will be subject to the approval of their supervisor.
- e. Holiday Worked (Shifts Scheduled Over 8 Hours):
 - i. Employees who are scheduled to work on a city-recognized holiday and are assigned to a shift longer than 8 hours will be entitled to holiday pay of 8 hours, as set forth above. Thereafter it shall be at the rate of 1-1/2 times their regular rate for the remaining hours of the shift.

VI. OVERTIME TRAVEL:

- a. Each overtime travel situation will be evaluated to determine if it is compensable. Basically, if travel is considered "work" in the interpretation of the Fair Labor Standards Act, it is compensable. Contact the Finance Office in each case that there is a question.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-4

SUBJECT: NEPOTISM

I. PURPOSE:

To establish policy for the employment of immediate relatives in order to assure the reality and appearance of fairness in the best interest of the City.

II. STATEMENT OF POLICY:

No person under service to the City who, by virtue of his/her position, shall have the right to hire or otherwise appoint any person to render services to the City, nor shall he/she enter into any agreement or promise to do so with such person or persons related to him/her or

connected to him/her by consanguinity within the 4th degree, or by affinity within the 2nd degree.

III. DEFINITIONS:

- a. A person connected within the fourth degree of consanguinity includes: parent, child, grandparent, brother or sister, grandchild, great-grandparent, uncle or aunt, nephew or niece, great-grandchild, great-great-grandparent, great-uncle or aunt, first cousin, grandnephew or niece, and great-great-grandchild.
- b. A person connected within the second degree of affinity includes: father-in-law, mother-in-law, daughter-in-law, son-in-law, grandparent-in-law, brother-in-law (wife's or husband's brother) and his wife, sister-in-law.
- c. This policy shall also apply to persons related by blood or marriage residing in an employee's home.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION: 20-5

SUBJECT: PROBATION & TRIAL PERIOD

I. PURPOSE:

To establish policy and procedure for the probation & trial period for new employees and current employees who transfer to a new position.

II. STATEMENT OF POLICY:

- a. All newly hired employees must serve a period of initial probation. Exempt management (Directors & Chiefs), police officers, and firefighters serve a probation period of one year; all other employees serve a minimum of six month probation unless otherwise defined by a labor contract.
- b. The initial probation period is designed to give the employee time to learn the position and to give the supervisor time to evaluate the employee's potential and performance. Probationary employees will be formally evaluated at three (3) months of employment and one month prior to completion of their probationary period. During the established initial probationary period, the City reserves the right to terminate the probationary employee's service with or without cause, provided, however, the employer shall not discharge or otherwise discipline an employee for protected union activity, public policy or written policies.
- c. Rejected probationers shall be notified of such action in writing by the department head at any time during the initial probationary period and a copy of said notification shall be retained in the personnel files.
- d. At the end of the initial probation period, the employee is formally evaluated and provided written documentation of progress. Other evaluations, as noted above, will be conducted during the course of the probation period to assess performance and to advise employees of expectations regarding performance. Significant job deficiency(ies) shall be documented in the employee's personnel file. These evaluations provide the necessary justification for retention of the person as a regular employee.
- e. Under unusual circumstances, the initial probationary period may be extended. This is only after an evaluation of the situation, the employee's abilities, and demonstrated potential. Probation extension is done only upon recommendation of the Supervisor, department head and City Manager's Office.
- f. If the employee successfully completes the initial probation period, he/she shall be informed that he/she is now a regular employee. This will be accomplished by the City Manager's Office with the approval of the appropriate department head via the Payroll Change Notice.

- g. Employees who have successfully completed their initial probationary period and who are transferred, promoted/demoted to a new position must serve a minimum of thirty (30) days trial in the new position. The length of this trial period, which will be established by the Director of the respective department with approval of the City Manager, will be based on the requirements/duties of the job.
- h. If a current employee, who is not on the initial probation, has been transferred, promoted or demoted; he or she remains eligible for all fringe benefits included with the previous position during the probation period for the transfer or promotion. If the position to which an employee has been transferred or promoted carries benefits different from those of the previous position, the person becomes eligible for the benefits of the new position upon the satisfactory completion of the trial period retroactive to the date of the transfer or promotion.
- i. If a transferred, promoted or demoted employee, who is not on their initial probation, fails to achieve satisfactory performance in the new position during the trial period and their performance in the previous position was satisfactory; he or she may be allowed to return to the position of which they left. After the completion of the trial period the employee will be given priority for the first position opening similar to the one previously held if the employee's performance in the previous position was satisfactory. If an employee had not performed satisfactorily in the previous position, termination from City employment will be considered.
- j. If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted will not be considered as time worked.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 9, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-6

SUBJECT: RE-EMPLOYMENT

I. PURPOSE:

To establish a policy for re-employment.

II. STATEMENT OF POLICY:

- a. Any former regular employee who resigned or has been laid off from the City in good standing is eligible for re-employment.

- b. Persons interested in re-employment should file a completed City application form with the City Manager's office. The individual will then proceed through the regular hiring procedures with other applicants as described in the Hiring Process Policy.
- c. An individual re-employed in his/her former position may be paid at the same pay step at the time he/she left the City, provided however, that the re-employment is within 1 year of the previous resignation.
- d. The compensation of an employee re-hired to a position other than the former position will be subject to provisions for new hires.
- e. Reinstatement in the retirement system will be made in accordance with the rules and regulations as set by the State Retirement system.
- f. Vacation eligibility will include previous Montana government service.
- g. The date of hire will take the person's previous service with the City into account, however, future step increases will coincide with the re-employment date.
- h. The individual's previous personnel file will be re-activated once re-employed by the City provided re-employment is within seven years after the original resignation.
- i. All individuals re-employed by the City must complete a new probationary period.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-7

SUBJECT: EMPLOYEE IN-PROCESSING/ORIENTATION

I. PURPOSE:

To establish a policy and procedure for processing new City employees.

II. STATEMENT OF POLICY:

All new regular full-time and regular part-time employees of the City will be scheduled to meet with the Human Resources Director and/or designee on their first day of work for general orientation.

III. The Human Resources Department will distribute and explain the various enrollment forms, etc. that must be filled out.

- IV. Each new employee will be provided with information on employee benefits, City policies and operations.
- V. The hiring department provides additional information to the new employee, including:
 - a. Work standards and regulations
 - b. Hours of work, time cards or reports, leave requests
 - c. Duties of the position
 - d. Safety rules and procedures, location of safety or protective equipment
 - e. Tour of the work area, including location of equipment, supplies, etc.
 - f. Introduction to co-workers
 - g. Schedule for lunch and breaks
 - h. When and to whom to report absence from work
 - i. Who is responsible for performance planning and review
 - j. American with Disabilities (ADA) Policy
 - k. Harassment Policy
 - l. Grievance Policy
 - m. Probationary & Trial Period Policy
 - n. Family Medical Leave Act (FMLA) Policy
 - o. Education specific to the equipment and tasks required of the position.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-8

SUBJECT: HIRING PROCESS

I. PURPOSE:

To establish a policy and procedure for all phases of the hiring process.

II. STATEMENT OF POLICY:

- a. The Human Resources Director and/or designee will administer and coordinate the hiring process for all position vacancies.
- b. The following procedures will be adhered to by all departments in announcing position vacancies. In cases where these procedures contradict existing labor agreements, the applicable provisions of the labor agreements shall prevail, unless otherwise prohibited by law.

III. RECRUITMENT:

- a. The Human Resources Director and/or designee will be notified immediately of all position vacancies.
- b. The affected department may be asked to assist the Human Resources Director &/or designee, as necessary, in formulating the job announcement, ads, and in determining special applicant sources.
- c. The Human Resources Director and/or designee will distribute to City departments copies of the job announcement for posting for a minimum of seven working days.
- d. The City does not, under normal circumstances, use the services of any private employment agency, either employer or employee paid.
- e. Applications shall be submitted to the Human Resources Director and/or designee using City Employment Application forms.
- f. If applicant wishes to be considered for more than one position for which he/she may be qualified, separate applications or resumes must be submitted for each position.
- g. In-house candidates interested in applying for another position within the City should follow procedures as outlined in the policies on TRANSFERS or PROMOTIONS.
- h. Previous applicants, who were interviewed, considered, yet not offered that position with the City in the past sixty (60) days and there now exists a new and similar position, may offered the position without posting and re-advertising of the position.
- i. Applicants may be disqualified for consideration for employment when any of the following facts exist including, but not limited to:
 - i. They do not possess the qualifications for the job.
 - ii. They have demonstrated an unsatisfactory employment record or personal record as evidenced by information contained on the application form or by the results of a reference check.
 - iii. They have made false statements of any material facts or practiced deception in their application.
 - iv. The applicant is not within the legal age limits prescribed by law.
 - v. Poor driving record if position requires operating city vehicles.
 - vi. Unauthorized to work in the United States

IV. TESTING:

- a. Examinations may be developed for certain positions based on the position's responsibilities, the qualifications required, and resources available.
- b. The examination may consist of oral interview/application review, a structured questionnaire, practical tests, written tests, in-basket exercise or assessment center, etc. In all cases, the testing will be job related and designed to determine the candidate's knowledge, skills and abilities (KSA's) for the position.
- c. Examination contents are confidential and unauthorized disclosure to any candidate is grounds for discipline.
- d. The Human Resources Director and/or designee shall ensure that all testing is based on bonafide occupational qualifications.

V. INTERVIEW PROCESS:

- a. The employment interview is a supplement to and part of the selection process. The primary function of the interview is to obtain data or certain knowledge, skills, abilities of a candidate not available through review of resumes' or other testing mechanisms. Certain guidelines will be observed to maximize the validity and reliability of the interview process as well as ensure the adherence to current EEOC requirements.
- b. The department hiring the individual and working with the Human Resources Director and/or designee shall coordinate the interview process, including selection of panel members, scheduling candidates, development of interview questions, etc.
- c. Generally no more than three individuals will serve on the interview panel. Relatives or personal friends of the applicants will be excluded from serving on the panel.
- d. The Human Resources Director and/or designee and the department head of the department in which the position vacancy exists (the City Manager in vacancies involving department head openings) shall be responsible for the development of interview questions and standards for measurement of candidate responses.
- e. Following the interview, the interview panel shall attempt to reach consensus and report the interview results and recommendations to the City Manager. If consensus cannot be reached, the final candidates, including their strengths and weaknesses, will be reported to the City Manager.

VI. REFERENCE CHECK:

- a. Before any conditional offer of employment is extended by the City, the Human Resources Director and/or designee conducts a reference check of the selected

candidate(s). The check includes verification of employment duties, dates of employment, work record, attendance record, strengths, weaknesses, safety record, and other pertinent information. Parts of the reference check may be delegated to the affected department.

- b. No reference check or background investigation will be conducted without first notifying and receiving permission from the applicant.
 - i. Note: Failure of applicant to give permission will result in disqualification from consideration for the position.
- c. Results of the reference check and/or background check will help determine the applicant's fitness for the position.
- d. A recommendation for conditional offer of employment will be forwarded to the City Manager by the Human Resources Director &/or designee for final approval to extend such conditional offer.

VII. APPLICANT NOTIFICATION OF CONDITIONAL OFFER OF EMPLOYMENT:

- a. For all positions, an employment conditional offer of employment letter is forwarded to the final accepting candidate outlining the terms of employment. The letter is prepared and mailed by the Human Resources Director &/or designee in cooperation with the affected department.

VIII. APPLICANT EXPENSES:

- a. Unless approved by the City Council and City Manager, the City does not reimburse any applicant for travel costs in conjunction with the hiring process.
- b. Relocation costs are paid in full by the employee unless otherwise approved by the City Council and City Manager.
- c. The applicant should be advised of Items a. and b. above before reporting for the interview.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-9

SUBJECT: EMPLOYEE TERMINATION AND EXIT PROCESS

I. PURPOSE:

To establish procedure for employee termination with the City by service or disability retirement, resignation, discharge, probation period termination, or layoff. The procedures are designated to provide the least disruption and inconvenience to the employee and the City.

II. STATEMENT OF POLICY:

a. Definitions:

- i. Resignation: Resignation is a termination action which is initiated by the employee.
- ii. Retirement: Retirement is a termination action which is initiated by an employee who meets the basic eligibility requirements of his/her appropriate retirement system.
- iii. Discharge: Discharge is a termination action which is a result of employee misconduct.
- iv. Reduction-in-Force: Reduction-in-force is a termination action which is a result of insufficient funds or other business reasons and is not a disciplinary action.
- v. Employees who are voluntarily resigning from the City of Kalispell are requested to give a written notice with a minimum of two weeks. Employees will be provided their final paycheck within 15 days or the next scheduled pay period, whichever is sooner.
- vi. Depending on the circumstances surrounding the resignation, employees who resign from the City of Kalispell may be eligible for re-employment. Former employees will be required to complete an application/resume, as determined, and proceed through the regular hiring procedure as other applicants. A former employee who is re-hired by the City of Kalispell will be considered a new employee and required to complete the applicable probationary period. Date of service, for seniority purposes, will be the date of instatement of the subsequent hiring. Subsequent employment and participation in the retirement system will be made in accordance with the rules and regulations of the retirement plan, as well as all applicable federal and state laws.

- b. The City Manager and/or their designee have authority to determine if the City of Kalispell's workload, funding or other business decisions are such that terminations (via layoff or reductions-in-force [RIF]) are required. Whenever possible, employees will be provided at least two (2) weeks advance notification before the layoff or RIF.
- c. Regular employees will not be terminated if probationary, temporary or short-term workers are employed in the same work classification.
- d. The insurance company will work in conjunction with the Human Resources Director and/or their designee to ensure relevant benefits information is forwarded to the employee at the last known address.
- e. Employees must keep the City of Kalispell informed of the address and telephone number where they can be contacted in the event of a recall. If the City of Kalispell is unable to contact an employee within seven business days of the recall, the employee will be eliminated from the recall list and the City of Kalispell will have no further obligation to recall that employee.
- f. The City of Kalispell will have no obligation to recall the employee if they have been on a continual layoff for a period of one (1) year.
- g. Employees terminated by the City of Kalispell will have a letter issued stating the reason and the effective date of the termination. Employees who are on their initial probation may be discharged with or without cause that the City of Kalispell deems appropriate within the six (6) or twelve (12) month probationary period, as appropriate.
- h. The City of Kalispell will follow the procedure outlined in the Employee Discipline section to terminate a non-probationary employee. An employee terminated for cause does not retain his/her job or benefits pending any grievance appeal, but if he/she wins the grievance, such salary and benefits may be restored retroactively.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 9, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 20-10

SUBJECT: WORKPLACE VIOLENCE

I PURPOSE:

To grant our staff a friendly, courteous and impartial work environment.

II STATEMENT OF POLICY:

- a. The City of Kalispell is committed to providing our staff a friendly, courteous and impartial work environment. The City of Kalispell acknowledges that human relationships are subject to conflict and that some employees may be exposed to violence by the nature of their jobs. The City of Kalispell is committed to maintaining a safe, healthful and efficient work environment in which acts of violence by employees or citizens will not be tolerated.
- b. The City of Kalispell will strive to provide a safe and secure work environment. Employees should avoid or minimize potentially violent situations to protect themselves from harm. If an employee anticipates a particularly confrontational situation, they should notify their supervisor, the City Manager, Human Resources Director and/or their designee so that additional security can be arranged. When a situation begins amicably but turns hostile, employees should try to de-escalate the situation. If de-escalation tactics don't work, they should withdraw from the situation. Force should not be used unless it is absolutely necessary for self defense.
- c. Threats or acts of violence experienced or witnessed should be reported to the employee's supervisor or the City Manager, Human Resources Director and/or their designee as soon as possible. The City of Kalispell will promptly investigate any complaint received that pertains to workplace violence. The City of Kalispell will take appropriate, prompt actions against any employee who engages in any threatening or intimidating behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures.
- d. This policy prohibits employees from bringing unauthorized firearms or other weapons (including pepper spray, stun guns, batons, etc) onto City of Kalispell premises. Employees are also prohibited from carrying unauthorized firearms or other weapons in City of Kalispell vehicles or in personal vehicles if conducting City of Kalispell business.
- e. If a City of Kalispell employee has violated this policy, such action may warrant disciplinary action, up to and including termination. If necessary or appropriate, the City of Kalispell will notify the necessary law enforcement personnel and prosecute violators of this policy.

- f. If there is fear that the domestic violence could result in workplace violence, employees should notify their supervisor or the City Manager, Human Resources Director and/or their designee immediately so appropriate security measures can be arranged.

NEW POLICY – EFFECTIVE Resolution 5468 - January 3, 2011

SECTION 30-1

SUBJECT: TYPES OF EMPLOYMENT AND ELIGIBILITY FOR BENEFITS

I. PURPOSE:

To establish guidelines and definitions for types of employment and for entitlement to benefits.

II. STATEMENT OF POLICY:

- a. The types of City employment are:
 - i. **Probationary Employee:** A newly hired employee during the initial period of employment. All newly hired City employees are on a probationary status which, unless provided otherwise union agreement or other documents, extends for six (6) months, or in certain cases, one (1) year, from the date of hire. Probationary periods may be extended under special circumstances.
 - ii. **Regular Full-Time Employee:** An employee who has successfully completed the initial probationary period, is assigned to a position which is expected to continue for an indefinite duration, and works a shift schedule which totals no less than 2080 hours per year.
 - iii. **Regular Part-Time Employee:** An employee who has successfully completed the initial probationary period, is assigned to a position which is expected to continue for an indefinite duration, and works a shift schedule of 20 hours or more, but less than 40 hours, per week.
 - iv. **Temporary Full-Time Employee:** An employee whose work assignment is limited in duration to twelve months or less, and works a shift schedule which on an annual basis would total no less than 2080 hours.
 - v. **Temporary Part-Time Employee:** An employee whose work assignment is limited in duration to six months or less, and works a shift schedule which on an annual basis would total less than 2080 hours.

- vi. **Student Intern Employee:** An employee who is regularly enrolled as a student in a recognized educational institution and is assigned to a full or part-time position which, in the case of post-secondary students, is related to the student's course of study and which will continue for not longer than the then current semester or term at the student's school; provided, however, that subsequent work assignments may be made for the same student for periods which correspond to the student's subsequent semester or term.
 - vii. **Seasonal Employee:** An otherwise permanent employee designated by the City as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.
 - viii. **Short-term Employee:** An employee whose work assignment is limited in duration to ninety (90) days or less, without regard to the number of hours worked, who is not eligible for permanent status, and who may not be hired into another position by the City without a competitive selection process.
 - ix. Note: To be rehired as a Short-term employee, there must be five (5) consecutive days of complete separation from the City as an employee.
 - x. **Transitional Employee:** A city employee who has been temporarily reassigned to duties other than his normal duties under the city's Early-Return-to-Work Policy.
 - xi. **Recurrent Seasonal Employee:** An employee who would be considered an on-call as designated by the City and who; has worked previously for the City, performs duties interrupted by at least one season, works less than 960 hours in a calendar year, and who may be recalled without the loss of rights or eligibility for health insurance benefits, so long as that employee maintains those benefits during the period when not working for the City. Employees who do not maintain those benefits shall not be eligible for reinstatement of said benefits.
- b. Employee compensation shall be stated in terms of annual or monthly salary or hourly wage.
 - c. Entitlement to employee benefits shall be as follows:
 - i. Regular full-time employees shall receive all employee benefits provided by the City; provided, however, that represented employees shall receive only those benefits provided for by the labor agreement.
 - ii. Probationary employees, who, upon successful completion of their initial probationary periods will be regular full-time employees, shall be entitled to the same benefits as regular full-time employees, subject to the applicable eligibility provisions and time periods.

- iii. Regular part-time and seasonal employees may be entitled to pro rata vacation, holiday, and sick leave benefits provided, however, that represented employees shall receive only those benefits provided by the labor agreement. Probationary part-time employees, who, upon successful completion of their initial probationary periods, will be regular part-time employees, shall be entitled to the same benefits as regular part-time employees, subject to applicable eligibility provisions and time periods.
 - iv. Service time with other city, county or state agencies does not add to an employee's continuous service with the City of Kalispell. However, according to State law, Section 2-18-612, MCA, vacation leave credits must be calculated based on the total years of employment with any city, county, or state agency in the State of Montana. Such time will be credited to an employee's records upon receipt of a certified statement from the employing agency, stating time of service and dates.
 - v. An approved leave of absence without pay will not interrupt the accumulation of continuous service, provided the employee meets the conditions required by the City for such leaves.
- d. Employees taking unpaid leave without pay, temporary disability leave, or Family and Medical Leave, shall not accrue sick leave or vacation time while on such leave.

EFFECTIVE: Immediately

DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 30-2

SUBJECT: MEDICAL/HEALTH INSURANCE COVERAGE

I. PURPOSE:

To provide an outline of medical/health benefits provided by the City of Kalispell.

II. STATEMENT OF POLICY:

The City of Kalispell provides group health and dental insurance plan for all City employees and their families. Supplemental plans may be added and/or deleted based on the needs of the City and its employees. Eligibility Requirements:

- a. Regular Full-Time
- b. Regular Part-Time
- c. Retirees (retiree pays entire premium)
- d. Employees who have been terminated may be eligible to remain with the City's group plan under certain conditions as outlined under COBRA benefits.

III. City Contribution:

For regular full-time employees, the City shall determine the insurance carrier and contribute the amount determined by the employee's status each month toward Health Insurance Coverage. When an employee marries or adds/loses a dependent, the Human Resources Department must be notified of the change. Regular part-time employees shall be entitled to the pro-rata contribution to the cost of group health insurance.

IV. Coverage:

Group plan brochures are available in the Finance Office which explains detailed insurance coverage offered by the plan. The Human Resources Director &/or designee is the liaison between employees and the insurance company and is available to help employees with their insurance problems.

V. When Coverage Begins:

Coverage for new employees begins following 30 calendar days of employment.

VI. When Coverage Ends:

If an employee terminates before the 15th of the month, coverage is extended to the 30th of the month. Employees who terminate after the 15th of the month will have coverage through the 30th of the following month, unless the employee elects to remain insured under b. of this part.

- a. Employees who retire have the option to remain in the City's group plan, provided they pay the current full premium each month. A retiree's dependents may continue coverage following death.
- b. Continuation Coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Terminating employees may have the option of "Continuation Coverage," provided the termination is not the result of misconduct. Spouses and dependent children are allowed to stay on group coverage.
- c. With the exception of Family Medical Leave Act (FMLA), employees may elect to continue their total existing insurance coverage, at employee expense, while on leave of absence (Leave without pay).
- d. Employees using FMLA shall receive health insurance coverage according to the terms and conditions that are in effect during the time the employee is using such leave.

EFFECTIVE: Immediately

DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 30-3

SUBJECT: RETIREMENT

I. PURPOSE:

To provide an outline of retirement programs and benefits available to City employees.

II. STATEMENT OF POLICY:

- a. Retirement systems for City employees are Public Employees Retirement System (PERS). (Administered by the State of Montana) Employees covered are:
 - i. Regular full-time
 - ii. Regular part-time
 - iii. Temporary Employees when they have worked or if they are expected to work at least 960 regular hours.
 - iv. All other employees who have elected to participate.
- b. Contributions to the Fund: The City and the employees contribute a percentage of income to the fund as determined by the plan administrator.

- c. Creditable Time: As provided by Montana State law, the time an employee has worked for any city, county or state government in the State of Montana, including the Montana National Guard, may be counted towards retirement under the PERS. Employees may "buy back" military time for inclusion towards PERS.
- d. Retirement Process: Employees who wish to retire should inform the Human Resources Director &/or designee as soon as possible to receive counseling.
- e. Withdrawal of Funds: Employees may withdraw PERS contributions only when terminating. An application form must be filled out with the Human Resources Director &/or designee. PERS withdrawals are generally received six (6) to eight (8) weeks after the final date of employment.
- f. Social Security (FICA) - Eligible Employees:
 - i. All employees regardless of employment status with the exception of: (i) police officers and firefighters hired prior to March 31, 1986; (ii) police officers and firefighters hired after March 31, 1986; and, (iii) seasonal or temporary employees, who work less than 6 months.
 - ii. Contributions to Fund: The City and the employee contribute a percentage of the employee's gross wages.
- g. Police Retirement (Administered by the State of Montana)
 - i. Eligible Employees: Mandatory
 - ii. Contributions to Fund: The City and the employee contribute a percentage of the employee's base salary.
- h. Firefighters Retirement (Administered by the State of Montana)
 - i. Eligible Employees: Mandatory
 - ii. Contributions to Fund: The City and the employee contribute a percentage of the employee's base salary.

III. Medicare

- a. Eligible Employees: Mandatory. All employees pay Medicare whether or not they are subject to Social Security Taxes. (Exception are those police officers and firefighters hired prior to March 31, 1986.)
- b. Contributions to Fund: The City and employee contribute a percentage of the employee's gross wage.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-1

SUBJECT: EMPLOYEE CONDUCT

I. PURPOSE:

To outline specific areas which may result in employee discipline.

II. STATEMENT OF POLICY:

It shall be the duty of employees to maintain high standards of cooperation, efficiency and integrity in their work with the City. If an employee's conduct falls below standard, he/she may be subject to disciplinary action. Examples of conduct for which an employee may be disciplined include, but are not limited to:

- a. Reporting to work under the influence of intoxicants or nonprescription/illegal drugs, using such substances or being impaired, while on City property.
- b. Failure to follow the orders of one's supervisor(s).
- c. Being absent from work without permission or failure to report to the supervisor or department head when one is absent.
- d. Being habitually absent or tardy for any reason.
- e. Failure to perform assigned work in an efficient or effective manner.
- f. Being wasteful of material, property or working time.
- g. Inability to get along with fellow employees so that the work being done is hindered and not up to required levels.
- h. Failure to observe proper security procedures.
- i. Conduct on the job which violates the common decency or morality of the community.
- j. Commission of a felony or gross misdemeanor that may affect the performance, safety or function of the job.
- k. Violating safety rules and regulations.
- l. Speaking critically or making derogatory or false accusations so as to discredit other employees or supervisors.

- m. Removal of City, co-worker's or private citizen's money, merchandise, or property, including property in custody of the City, co-worker or private citizen without permission.
 - n. Lying to supervisors in connection with one's job.
 - o. Dishonesty, including intentionally giving false information, intentionally falsifying records or making false statements when applying for employment.
 - p. Being on City premises during nonworking hours without permission.
 - q. Divulging or misusing confidential information, including removal from City premises, without proper authorization, any employee lists, records, designs, drawings, or confidential information of any kind.
 - r. Accepting fees, gifts, or other valuable items in the performance of the employee's official duties for the City.
 - s. Inability or unwillingness to perform the assigned job.
 - t. Falsification of time records for payroll.
 - u. Abuse of sick leave privileges or obtaining sick leave pay falsely or under false pretenses.
 - v. Failure to maintain job-required certification, accreditation, license or violation of statutory or regulatory rules which may apply.
 - w. The use of profanity or abusive language towards a fellow employee or member of the general public while performing official duties as a City employee.
 - x. Threatening or harassing a supervisor, co-worker or private citizen.
- III. Refer to the Section on DISCIPLINARY ACTION for additional information on procedures for and types of disciplinary action.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-2

SUBJECT: EMPLOYEE PERSONAL APPEARANCE

I. PURPOSE:

To establish a general policy regarding employee appearance.

II. STATE OF POLICY:

- a. Employees should portray a positive image to the citizens of Kalispell. Often, the contact City employees have with the public is the only image they have of City operations in general.
- b. It is the policy of the City that the choice of dress be left to the employee's discretion; however, the dress must conform to the work environment and should be conservative and non-offensive to other employees or the public. If an employee's appearance and/or hygiene and grooming is such that it is generally offensive, a supervisor is encouraged, and may be required to discuss the subject with the employees.

III. ENFORCEMENT

- a. Department managers and supervisors are responsible for monitoring and enforcing this policy. The policy will be administered according to the following action steps:
 - i. If questionable attire is worn in the office, the respective department director, supervisor/manager will hold a personal, *private discussion with the employee to advise and counsel the employee regarding the inappropriateness of the attire.
 - ii. If an obvious policy violation occurs, the department supervisor/manager will hold a hold a *private discussion with the employee and ask the employee to go home and change his/her attire immediately.
 - iii. Repeated policy violations will result in disciplinary action, up to and including termination.

*If represented by a Union, the employee may request representation.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-3

SUBJECT: PERSONAL & BUSINESS TELEPHONE CALLS/FAX

I. STATEMENT OF POLICY:

Management recognizes that it is necessary to use the City phone system or a personal cell phone for personal business at times.

II. Supervisors must discourage use of phones for visiting. The following are examples of calls which would be considered acceptable:

- a. Arrange for care of children.
- b. Check on sick family member or arrange for care of a sick family member.
- c. Arrange for property repairs such as plumbing, car, etc.
- d. Any local personal call during coffee breaks as long as it does not tie up the telephone lines into the office.
- e. All personal telephone calls should be kept to an absolute minimum.
- f. Use of City telephones for long distance calling shall be limited to emergency situations, and costs shall be reimbursed to the City.

III. Cellular Phones

- a. You may not use your cellular phone or similar device to receive or place calls, text messages, surf the Internet, check phone messages, or receive or respond to email while driving or operating equipment. Therefore, you are required to stop your vehicle in a safe location so that you can safely use your cell phone or similar device
- b. The city assumes no liability for loss or damage to employees' personal property, including cell telephones.
- c. Employees assume the risk of loss or damage to personal cell phones or other electronic devices carried by employees during their workday.
- d. Employees in violation of this policy may be subject to disciplinary action.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-4

SUBJECT: POLITICAL ACTIVITY

I. PURPOSE

While individuals have the right to participate in the electoral process, it is important for public officers and employees to keep their political activities separate from their official duties. For that reason, public officers and employees must use their personal time to engage in campaign activities and they may not use public funds, facilities or equipment to do so.

II. STATEMENT OF POLICY:

- a. Employees shall not engage in any form of political activity during working hours. Political activity shall not interfere with or impair an employee's work performance.
- b. Except as provided in 2-2-121 (3)(b), MCA, a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is: (i) authorized by law; or (ii) properly incidental to another activity required or authorized by law.
- c. According to state law, Section 7-32-4114, MCA, no member of the police force will hold any other office or be employed by any other department of City government.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-5

SUBJECT: OUTSIDE EMPLOYMENT

I. PURPOSE:

To establish a procedure whereby employees may engage in employment apart from City employment.

II. STATEMENT OF POLICY:

The City of Kalispell should be the primary job for regular employees. Should another position, whether for wage or remuneration or as a volunteer, interfere in any way with the employees' ability to satisfactorily complete City of Kalispell job duties or be considered a conflict of interest, the employee may receive disciplinary action.

III. PROHIBITED PRACTICES:

An officer or employee of the City of Kalispell shall not:

- a. Engage in a substantial financial transaction for his/her private business purposes with a person whom he/she inspects or supervises in the course of his/her official duties; or
- b. Perform an official act directly or substantially affecting to its economic benefit a business or other undertaking in which he/she either has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

IV. PROCEDURE:

- a. Employees who wish to work or volunteer at jobs outside the city must first submit a written statement to their supervisor containing the following information:
 - i. Name, address and telephone number of other employer.
 - ii. Proposed hours to be worked.
 - iii. Description of work.
- b. Such employment must be approved by the employee's supervisor and the City Manager. Authorization for such employment with any conditions shall be filed in the employee's personnel file.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-6

SUBJECT: USE OF CITY VEHICLES

I. PURPOSE:

To establish guidelines for the use of City-owned motor vehicles.

II. STATEMENT OF POLICY:

- a. City-owned motor vehicles shall be used for official City business only unless approved by the City Manager and/or Council.
- b. City vehicles shall not be taken home overnight except as follows:
 - i. Employees may take a City-owned vehicle home for one night when attendance to an out-of-city meeting takes place late at night after normal working hours or early in the morning prior to normal working hours.
 - ii. Those employees designated by the department head to be "on 24-hour call" for department/division emergencies.
 - iii. For more than one night when specifically authorized by the City Manager.
 1. Approval for paragraph b.i. above may be granted verbally by the employee's Department Head.
 2. Approval for paragraph b.ii. above must be requested in writing to the City Manager and concurrence obtained in writing from the City Manager.
- c. City vehicles must be available for City business at all times.
- d. City vehicles may be used for travel to lunch:
 - i. When an employee is on City business;
 - ii. When an employee is in town in a City vehicle in a location where driving to obtain his/her personal car would result in an extra and unnecessary expenditure of fuel.
- e. Transporting family members in City vehicles shall be allowed only when the family member is accompanying a City employee to a business meeting or official function.
- f. City vehicles shall be legally and appropriately operated and/or parked at all times. Violations issued to the driver of the vehicle will be the responsibility of the driver, not the City.
 - i. Any traffic violations while operating a City-owned vehicle will be reported immediately to your supervisor.

- g. Seat belts will be used by the driver and all passengers at all times when the vehicle is in motion. It shall be the driver's responsibility to ensure use of seat belts by all passengers.
- h. Department heads may establish supplemental department vehicle policies.
- i. Smoking in any City vehicles is prohibited.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-7

SUBJECT: EMPLOYEE CONTRACTS WITH THE CITY

I. STATEMENT OF POLICY:

- a. Employees must not have an interest in any contracts made by them in their official capacity in accordance with State law. (Section 2-2-201, MCA).
- b. A former City employee may not carry a contract or be employed by an employer who contracts with the City or be employed by an employer who contracts with the City regarding matters he/she was directly involved in during his/her employment with the City within six months of termination. (Section 2-2-201, MCA).

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 40-8

SUBJECT: DISCIPLINARY ACTION

I. PURPOSE:

To establish policies and procedures related to disciplinary action for City employees.

II. STATEMENT OF POLICY:

- a. It shall be the policy of the City to administer discipline fairly, reasonably, and impartially. Employees and the City are best served when discipline is administered to correct actions rather than to punish.
- b. All disciplinary actions involving suspensions without pay or termination require concurrence of the City Manager prior to discipline being administered.

III. PROCEDURE:

- a. The tenure of City employees shall be based on reasonable standards of job performance and personal and professional conduct. Failure or refusal to meet these standards shall constitute just cause for disciplinary action including oral or written reprimand, suspensions, demotions, and dismissal.
- b. Disciplinary action is not primarily intended to be punitive, but rather to maintain the efficiency and integrity of City service. The nature and severity of the offense and the employee's prior record shall be considered.
- c. In any major disciplinary action, the pertinent information shall be reviewed with the employee specifying the following: The cause for discipline, the specific reasons supporting the cause, the discipline to be imposed, the effective date, and the right of the employee to be heard.
- d. Employees may be disciplined for, but not limited to, areas detailed in the Policy on EMPLOYEE CONDUCT.
- e. The degree of discipline administered will depend on the severity of the infraction and shall be in accordance with any applicable labor contract, regulations, and City policies and procedures as well as local, state or federal laws and regulations.
- f. It is the responsibility of each supervisor and department head to investigate and evaluate thoroughly the circumstances and facts as objectively as possible and then apply the most suitable form of discipline.
- g. Employees being investigated should be notified in writing of any allegations/infractions against them and that an investigation will be taking place.

IV. TYPES OF DISCIPLINARY ACTION MAY INCLUDE:

- a. **Oral Warning** - This type of discipline should be applied to infractions of a relatively minor degree or in situations where the employee's performance needs to be discussed. The oral warning should be given in private, **subject to employees' rights of representation**. Supervisors should inform the employee that the supervisor is issuing an oral warning, that the employee is being given an opportunity to correct the condition, and if the condition is not corrected, the person will be subject to more severe disciplinary action.
 - i. A notation that an oral warning was given should be made in the employee's personnel file.
- b. **Written Reprimand** - This notice will be issued in the event the employee continues to disregard an oral warning or if the infraction is severe enough to warrant a written reprimand in the employee's personnel file. Written reprimand notices must be issued within a reasonable time after the occurrence of the violation claimed by the supervisor, not to exceed sixty (60) days, to enable discovery of the violation, to conduct adequate investigation of the incident, and to permit consideration of disciplinary alternatives by appropriate managerial personnel.
 - i. The reprimand shall state the nature of the infraction in detail and what corrective action must be taken by the employee to avoid further discipline.
 - ii. A copy of the written reprimand is to be handed to the employee at the time of the discussion of the discipline.
 - iii. The employee shall sign the written reprimand to acknowledge receipt. A copy, signed by the employee, will be placed in the employee's personnel file. If the employee refuses to sign the acknowledgment, then the supervisor and one other witness shall note on the reprimand that the employee received a copy thereof and refused to sign it.
- c. **Suspension** - This form of discipline is administered as a result of a severe infraction of policies or for repeated violation. For minor infractions, a suspension is often given after the employee has received a written reprimand.
- d. **Suspension Without Pay** - An employee will be suspended without pay when the offense is of a serious enough nature usually sufficient for discharge, but when circumstances related to an employee's overall performance would not warrant immediate discharge. The length of suspension should not normally exceed fifteen (15) work days.
- e. **Investigatory suspensions** may be used in cases where it is necessary to investigate a situation to determine what further disciplinary action may be justified.

- i. This suspension gives the supervisor the opportunity to discuss the problem with his/her superior to determine an appropriate course of action when the situation is serious enough for the employee to be removed from the work environment.
 - ii. If after investigation, it is determined that the employee was not guilty of any violation, he/she will normally be returned to his/her position, paid for any lost time, and a letter exonerating the employee will be placed in his/her official personnel file. If, however, the employee is found in violation, then the appropriate disciplinary action will take effect on the date that the investigatory suspension began.
 - f. **Suspension with Pay** - At the discretion of the City Manager or his/her designee, an employee of the City may be suspended with pay and benefits pending investigation of allegations of misconduct, when the nature of the allegation compromises the ability of the employee to perform his/her duties, and when a substantial period of time will be required to complete an investigation or legal action. Such suspension is not a disciplinary action and may not be appealed. If the charges are substantiated, disciplinary action will be taken in accordance with the nature of the offense, and may include recovery of salary and benefits paid during the suspension. If the charges are unfounded, the employee will be restored to duty and a letter of exoneration will be placed in the employee's official personnel file.
 - g. **Demotion** - Demotion may be used in those instances where an employee has been promoted to a position where he/she is unwilling or unable to perform the responsibilities of that position. Demotion is not to be used as a substitute for dismissal, when dismissal is warranted.
 - h. **Discharge** - Immediate removal of an employee from the job site pending review for discharge may be warranted in instances involving serious insubordination, theft, serious illegal or destructive acts while on the job, or other substantial reasons deemed appropriate by the City Manager. An employee may also be discharged after repeated offenses of a less serious nature if the offenses have been documented by the supervisor and appropriate behavioral changes have not resulted from previous progressive disciplinary action.
 - i. **Probationary employees** on their initial probation may be terminated at any time without cause and without the right of appeal for violations of policy or any laws. Notification of dismissal in writing shall be provided the probationary employee and a copy filed in his/her personnel file. Dismissals of probationary employees also require the concurrence of the City Manager.
- V. The original copy of the disciplinary action is to be signed by the employee and placed in the employee's personnel file with a copy given to the employee.

- VI. **Appeals.** Warnings, reprimands and suspensions without pay may be appealed. To appeal a disciplinary action taken by a supervisor, the employee must present a written appeal to his/her immediate supervisor within ten (10) working days of the disciplinary action. If a resolution cannot be reached at this level, a copy of all relevant information should be presented to the department head who shall attempt to resolve the matter within five (5) working days after it is presented to him/her. If the department head is unable to resolve the situation, a final appeal can be made to the City Manager's Office. The City Manager shall attempt to resolve the appeal within five (5) working days after it has been presented to him/her. The decision of the City Manager shall be final.
- a. If it is the City Manager who has issued the initial disciplinary action, any appeal shall be in the form of a request for reconsideration. The City Manager shall respond to such request within (5) working days. The City Manager's decision shall remain final.
- VII. In those instances where employees are covered by a collective bargaining agreement, the provisions of the labor contract shall govern disciplinary action. In all other cases, this policy and procedure shall apply.
- VIII. **Pre-disciplinary Hearing - Standards/Notice of Discipline.** The Human Resources Director &/or designee shall provide and arrange for a pre-disciplinary hearing prior to the demotion, suspension, or discharge of any employee.
- a. An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the proposed action should not be taken.
 - b. The employee may have legal counsel or union representation present at a pre-disciplinary hearing.
 - c. The department's explanation of the evidence at the pre-disciplinary hearing shall be sufficient to apprise the employee of the basis for the proposed action. This shall not limit the employer at subsequent hearings from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary hearing.
 - d. If, following the pre-disciplinary hearing, the City Manager determines that disciplinary action should be taken; written notice of discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the findings of the hearing. In addition, if the discipline rendered is termination, the employee will be provided a copy of the grievance procedure.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-9

SUBJECT: GRIEVANCE PROCESS

I. PURPOSE:

To establish standardized grievance procedures for non-represented employees.

II. STATEMENT OF POLICY:

- a. A "grievance" shall mean a claim or dispute by an employee with respect to the interpretation, meaning or application of the provisions of City's policies and procedures.
- b. It is the policy of the City of Kalispell to afford all employees a means of obtaining further consideration of problems when they remain unresolved at the supervisory level, and to establish policies and procedures that provide for timely resolution of grievances.
- c. Strict adherence to the procedures outlined below is mandatory for all concerned, except that time limits may be extended for good cause shown unless other procedures are provided by federal or state law regulations.
- d. Every attempt will be made to resolve the grievance to the mutual satisfaction of the employee and the City.

III. PROCEDURE:

- a. An aggrieved employee is encouraged to first seek resolution with his/her immediate supervisor or a first line manager consistent with the goal of resolving disputes at the lowest possible level in the organization. If the problem originates with the supervisor, then the employee will have the option of bypassing this step and filing an informal or, if necessary, formal grievance as outlined below.
- b. Step 1: An Employee must present a grievance within ten (10) working days of its alleged occurrence to the employee's immediate supervisor and department head, who shall attempt to resolve it within five (5) working days after it is presented to him/her.
- c. Step 2: If the employee is not satisfied with the solution by the department head, the employee must submit the grievance, in writing, to the City Manager's office within twenty (20) working days of the alleged occurrence. This written notice shall include the following:
 - i. Statement of the grievance and relevant facts.
 - ii. The City policy(s) which were violated.
 - iii. Copies of any documents and descriptions of any other physical evidence which may be used to support the grievant's position.

- i. Remedy sought.
 - ii. Reasons for dissatisfaction with the department head's solution.
- d. The City Manager shall attempt to resolve the grievance within five (5) working days after it has been presented to him/her. The City Manager is the final authority within the City on grievances presented by non-represented employees.
 - e. Questions or requests for additional guidance concerning procedural or substantial matters relating to the grievance should be directed to the City Manager's Office.
 - f. A written copy of the Grievance Policy will be provided to any employee who has been discharged or who has resigned from City employment under the City's discipline policy.
 - g. No punitive action shall be carried out against an employee for utilizing the grievance procedure when in good faith they believe a mistake has been made in the administration, application, development, or interpretation of a rule, plan or policy.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 10, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-10

SUBJECT: LOBBYING BEFORE STATE LEGISLATURE OR OTHER GOVERNMENTAL AGENCIES

I. PURPOSE:

To assure that the official policies of the City are properly expressed before legislative bodies or other governmental agencies.

II. STATEMENT OF POLICY:

- a. In order to assure that the official policies of the City are expressed during appearances before legislative bodies or other governmental agencies, the following policies will apply:
 - i. All testimony or statements, written or oral, given by an employee of the City before any governmental legislative body or other governmental agency shall strictly comply with the policies set forth by the City Council, action by a motion, resolution or ordinance.
 - ii. When there is no formal action by the Council, written authorization must be obtained from the City Manager prior to any activity by any employee of the City.

- iii. The policies expressed in parts (i) and (ii) above shall also apply to any correspondence written on City or departmental stationery and to any verbal conversation when the speaker represents himself as an employee of the City.
 - iv. Parts (i), (ii), and (iii) above, apply to all employees during normal working hours, except that any written statement on City or departmental stationery applies at all times. Any employee who appears before any governmental legislative body or any agency during hours other than working hours will not represent themselves as employees of the City unless all information given is in compliance with this policy. If during the course of an appearance or verbal interchange, the fact emerges that the person is an employee of the City, then a disclaimer will be issued that the information or testimony given represents the views of the employee and not that of the City. If information or testimony is given that is contrary to official policies of the City, then a statement to that effect will be given if the person has been identified as an employee of the City.
- b. All employees lobbying for the City before the state legislature and who expend any funds, which include wages, will file reports with the Commissioner of Political Practices.
 - c. Any violation of this policy or procedure may result in disciplinary action being taken against the employee.
 - d. "Lobby" or "lobbying" each mean attempting to influence the passage or defeat of any legislation on the adoption or rejection of any rule, standard, rate, or other legislative enactment that will, or could have, any impact on the City.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED:

SECTION 40-11

SUBJECT: SMOKING POLICY FOR CITY EMPLOYEES WITHIN CITY-OWNED FACILITIES

I. PURPOSE:

To be in compliance with Montana Clean Indoor Air Act (CIAA) and respond to the increasing evidence that tobacco smoke creates a danger to the health of persons who are present in a smoke-filled environment and to establish City policy to regulate the use of smoking materials by City employees while on duty

II. STATEMENT OF POLICY:

"Smoke" or "smoking" as used in this policy shall mean and include the smoking or carrying of any kind of lighted pipe, cigar, cigarette including electronic versions of any.

- a. Smoking is prohibited in all City buildings and City vehicles.
- b. Smoking will be restricted to designated areas as established by the City Manager.
- c. Areas designated for smoking may change from time to time to meet the needs of the City and desires of its employees and the public. In the event there is a conflict about the establishment of a smoking area, the right of the nonsmokers to breathe clean air free from harmful smoke shall supersede the right to smoke.
- d. Smoke breaks are to be confined to the affected employees lunch period or rest break. Employees are not allowed to have additional breaks just to smoke.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: June 17, 1996

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-12

SUBJECT: SOLICITATIONS

I. PURPOSE:

To establish a uniform policy for solicitations by sales representatives or agents in order to alleviate disruption of City employees during normal working hours.

II. STATEMENT OF POLICY:

- a. With the exception of United Way and other City-approved activities, peddling or soliciting for sale or donation of any kind on City premises during normal working hours is not allowed. Exceptions may be granted by the City Manager's office.
- b. Working hours include the working time of both the employee doing the soliciting or distributing, and the employee to whom such activity is directed.
- c. Employees are free to discuss these matters before or after normal working hours, and during lunch or rest periods in non-work areas.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 40-13

SUBJECT: CONTRIBUTIONS AND HONORARIUMS

I. PURPOSE:

To establish a policy and procedure for reporting contributions and honorariums.

II. STATEMENT OF POLICY:

- a. Speeches and presentations which are related to City services delivered by City employees to community and professional organizations are made without charge. If an organization wishes to give an honorarium or contribution for such a presentation, the remuneration must be made to the City, not to the individual employee.
- b. An honorarium or contribution for a speech or other presentation made by a City employee to a group outside the City, either during working time or for which the City provided travel expenses, will also be made to the City.

- c. Such contributions and honorariums shall be turned over to the Finance Director for disposition.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 40-14

SUBJECT: CONFIDENTIAL INFORMATION/PERSONAL GAIN

I PURPOSE:

Montana's constitution and key statutes guarantee public access to government records and meetings. However, the constitution limits the "right to know" when "the demands of the individual privacy clearly exceed the merits of public disclosure or where disclosure of confidential information related to contractual obligations may harm individuals or business owners.

II STATEMENT OF POLICY:

- a. Employees of the City of Kalispell may deal with confidential information. It is imperative that employees maintain City of Kalispell integrity and not discuss City of Kalispell business with people who should not be privy to the information. In some circumstances, City of Kalispell business should be revealed to other City of Kalispell employees on a need-to-know basis. If an employee has questions regarding confidential information and to whom the information should be revealed, they should consult with their supervisor, City Manager and/or their designee, or with City of Kalispell's legal counsel.
- b. Likewise, employees may not use knowledge gained through their employment at the City of Kalispell to achieve personal gain for themselves or anyone else. Employees cannot participate as a City of Kalispell employee where they may have private pecuniary interest, direct or indirect, or perform in some function requiring discretion on behalf of the City of Kalispell. Employees cannot disclose or use confidential information concerning property or City of Kalispell affairs to advance personal or private interest with respect to any contract or transaction that is or may be subject of official action of the City of Kalispell.

NEW POLICY - EFFECTIVE: Resolution 5468 - January 3, 2011

SECTION 40-15

SUBJECT: DRUG FREE WORK PLACE

I. PURPOSE AND INTENT:

- a. The City has a vital interest in maintaining safe, healthful, and efficient working conditions for its employees. Being under the influence of a drug or alcohol on the job poses serious safety and health risks to the person under the influence, all coworkers, and our customers. The City has established guidelines with regard to use, possession or sale of alcohol and/or illegal drugs or other controlled substances. These guidelines apply to all City employees.
- b. As the City is a recipient of Federal funds, and in accordance with the federal Drug-Free Work Place Act of 1988, the City maintains a drug free workplace. Employees are obligated as a condition of employment to refrain from unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances or illegal drugs in the workplace.
 - i. Employees whose position or function receives federal funding must notify their supervisor of any conviction or no contest plea related to a drug charge within five days of disposition. Employees found to be in violation of this policy are subject to disciplinary action, including participation in a drug-abuse assistance or rehabilitation program, or discharge
- c. Employees are not permitted to work while under the influence of any illegal drug, controlled substance, or alcohol. Supervisors who suspect an employee is unfit for duty may suspend that employee pending further investigation. Individuals who appear to be unfit for duty may elect to take or may be subject to a medical evaluation, which may include drug or alcohol screening. Employees found to be working under the influence are subject to disciplinary action, including discharge.
- d. The use of controlled substances will not be tolerated if:
 - i. The use adversely affects an employee's job performance;
 - ii. The use jeopardizes the safety of other employees, the public, or City facilities;
 - iii. The use jeopardizes the security of City finances or business records; and/or
 - iv. The use adversely affects citizen's or the public's trust in the ability of the City to carry out its responsibilities.
- e. Employees undergoing prescribed medical treatment of a controlled substance that may affect the safe performance of their duties are required to report this treatment to their supervisor through their personal physician. When possible, employees will be allowed to retain employment, and may receive a temporary reassignment.

- f. The City recognizes that alcoholism and/or drug abuse is a treatable illness. The City shall not discriminate against employees based on the actual or perceived nature of an illness. Employees who seek assistance for a substance abuse problem will not have their job security threatened. Employees who have a substance abuse related illnesses are offered the same options for referral and treatment that are afforded to employees having other illnesses.
- g. Supervisors who suspect an employee of on-the-job substance abuse will immediately remove the employee from the work environment. The supervisor may then either suspend the employee or bring their concerns to the attention of the department head and/or Human Resources so further action may be taken.
- h. An employee who voluntarily seeks treatment for a substance abuse problem, which requires a leave of absence for treatment, shall be granted such leave of absence and further shall be eligible for benefits under the specifications of the existing insurance policy.
- i. Nothing in this policy is construed to prohibit the City from its responsibility to maintain a safe and secure work environment for its employees. The City may, at its sole discretion, invoke disciplinary actions as appropriate for employee misconduct related to the use or abuse of alcohol or drugs or both.
- j. All testing of blood or urine for the purposes of detecting drug or alcohol use will be performed in accordance with the provisions of 39-2-207 MCA and 49 CFR 40.

II. PROHIBITED SUBSTANCES:

- a. Drugs shall be defined as those substances whose dissemination is regulated by law, including but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and alcohol. This definition shall include over-the-counter drugs and/or drugs that require a prescription or other written approval from a licensed physician or dentist for their use. The drugs that are included in these categories are as follows:
 - i. alcohol
 - ii. cannabinoids/marijuana
 - iii. cocaine
 - iv. heroin
 - v. opium or opiates
 - vi. phencyclidine (PCP)
 - vii. lysergic acid diethylamide (LSD)
 - xv. other controlled substances as defined in Title 50, Chapter 32, Part 2 Montana Code Annotated.
 - viii. barbiturates
 - ix. amphetamines or methamphetamines
 - x. methaqualone
 - xi. mescaline
 - xii. glutethimide
 - xiii. phenocycladine
 - xiv. procyclidine

- xvi. a prescription drug for which the employee does have or does not have a current, valid, personal prescription and which is not authorized or approved for use while operating a motor vehicle or other equipment.
 - xvii. any over-the-counter drug which may impair job performance and safety.
- b. The presence of trace amounts of alcohol, cannabinoids and/or over the counter drugs as evidenced by a drug or alcohol test shall not be grounds for disciplinary action to the extent that job performance and/or the ability to perform safely is not lessened to any appreciable degree. However, the presence of these substances will be grounds for discipline when such use is in violation of an agreed upon treatment, or a return to work agreement, or constitutes a violation of an occupational licensing requirement or regulation (such as a commercial driver's license).

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 40-16

SUBJECT: DRUG AND ALCOHOL TESTING

I. PURPOSE:

- a. City government provides a variety of public services. The employees of the City are its most valuable resource, since it is through their work that services are provided. When delivering services, the health and safety of the public and the health and safety of employees are of paramount importance.
- b. Drug and alcohol abuse is a problem of serious concern and one which affects all segments of the community, including the workplace. Such behavior poses risks to members of the public and to City employees. Employees have the right to work in an alcohol and drug-free environment. Members of the public have the right to be free from the harmful effects of alcohol and drug abuse in the provision of public services.
- c. The policy of the City is to provide a safe work environment and to protect the public by ensuring a drug-free workplace.
- d. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of alcohol and prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs. The Federal Highway Administration (FHWA) of the U.S. Department of Transportation has enacted 49 CFR Part 382, 391, 392 and 395, as amended, that mandate urine drug testing and

breath alcohol testing for persons who are subject to Commercial Drivers License (CDL) requirements and perform safety-sensitive functions.

- e. The U.S. Department of Transportation (DOT) has also enacted 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- f. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FHWA.
- g. This policy is also intended to comply with, the Montana Workforce Drug and Alcohol Testing Act, 39-2-205-211, M.C.A.
- h. This policy incorporates the requirements under the above regulations.
- i. Nothing in this policy is intended to preclude disciplinary action being taken under existing department policy.
- j. A list of definitions is included for easy reference (**ATTACHMENT 1**)
- k. Scope: This policy applies to all City employees, who are subject to CDL requirements and perform safety sensitive functions. It applies to on-duty time as well as off-site breaks and lunch periods when an employee is scheduled to return to work.

II. STATEMENTS OF POLICY:

- a. The City is committed to a drug-free workplace, to educating employees regarding the dangers of substance abuse, and to providing support for employees undergoing treatment and rehabilitation for chemical dependency. The City also is committed to the accountability of employees for violations of this policy through appropriate discipline, up to and including termination.
- b. Treatment and Rehabilitation: The City provides an Employee Assistance Program for employees needing treatment or rehabilitation as well as medical plan coverage for both inpatient and outpatient treatment. Accrued leaves may be used for treatment and rehabilitation purposes.
- c. Prohibitions: Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. This policy prohibits the following:
- d. The unauthorized use, possession, manufacture, distribution or sale of an illegal drug, controlled substance or drug paraphernalia on City property or while on City business, in City supplied vehicles or during working hours.

- e. The unauthorized use, possession, manufacture, distribution, or sale of alcohol on City premises or while on City business, in City supplied vehicles or during working hours.
- f. Storing any illegal drug, drug paraphernalia, or any controlled substance whose use is unauthorized, or any container of alcohol, in or on City property (including vehicles). Unopened containers of alcohol in a private vehicle parked on City property shall not be a violation of this policy.
- g. Reporting to work, or working, while under the influence of illegal drugs or alcohol, whether on City premises or on City business, or in City supplied vehicles.
- h. Failing to notify the employee's supervisor, before beginning work that the employee is taking medications or drugs which may interfere with the safe and effective performance of duties.
- i. Refusing to immediately submit to an alcohol and drug test when requested by a supervisor, in accordance with this policy.
- j. Failing to provide, by the next work day following a request, a valid prescription for any drug or medication identified when the results of a drug test are positive. If the employee is taking prescription drugs, the prescription must be in the employee's name.
- k. Refusing to submit to an inspection as described in the Enforcement Section when requested by a supervisor, in accordance with this policy.
- l. Failing to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled:
 - i. as a condition of continued employment; or,
 - ii. pursuant to a written agreement between the City and the employee.
- m. Violating any criminal drug or alcohol statute while working, or for a conviction under any criminal drug statute.
- n. Failing to notify the City of any arrest or conviction under any criminal drug or alcohol statute by the next work day following the arrest or conviction.
- o. Managerial Responsibility for Enforcement: Managers and supervisors shall be responsible for enforcement of this policy. The City will provide training to all managers authorized to act under this policy in evaluating and working with substance abuse issues in the workplace.
- p. Enforcement: When there is a reasonable suspicion to believe that an employee's job performance may be impaired by drugs or alcohol, the supervisor may:
 - i. direct the employee to submit to a drug/alcohol test; or,

- ii. search, with or without employee consent, all areas and property in which the City maintains control or joint control with the employee.
- q. Pre-Employment Testing: The successful applicant for a position requiring a Commercial Drivers License must pass a pre-employment drug test prior to hire. The test will be administered after a conditional offer of employment has been made and prior to any tentative start date.
- r. This test will be conducted under the SAMHSA (Substance Abuse and Mental Health Services Administration) standards and protocols. (See section on Processing Urine Samples.)
- s. The City may utilize both urine, blood and saliva tests for verification. The "enzyme-immunoassay" (EMIT) and "gas chromatography mass spectrophotometry" (DC-MS) test method shall be used in a laboratory agreed upon by the employee and the City. The City shall pay for the costs of all initial tests and medical examinations carried out under this procedure. The City shall maintain confidentiality of test results to the extent possible.
- t. Prior to hire, the prospective employee must provide a written release so that the City can obtain from previous employers for the last two (2) years the required information as provided in 49 CFR Part 382, section 382.413. This information must be obtained from employers for whom the prospective employee operated a CMV (Commercial Motor Vehicle). If this information is not provided to the City within fourteen (14) calendar days from the date the employment begins, the employee must be removed from performing safety-sensitive functions unless the City can document contact was made with the previous employer, the results of that contact, and why the information was not obtained.
- u. A prospective employee with a confirmed positive drug test will be disqualified from consideration for the position being filled. This will not prevent this individual from being considered for any subsequent vacancy.
- v. Pre-Duty Consumption of Alcohol: Employees are prohibited from consuming alcohol for four (4) hours prior to going on duty or before operating a commercial motor vehicle.
- w. This regulation from the FHWA applies to scheduled shifts and all call out situations. If an employee cannot meet this requirement, it is his/her responsibility to tell their supervisor, or person initiating the call out, that they cannot report to work.
- x. Reasonable Suspicion: "Reasonable Suspicion" is a belief based on objective facts sufficient to lead a reasonable person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or that the employee's ability to perform his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- i. Slurred speech;
 - ii. Irregular or unusual speech patterns;
 - iii. Impaired judgment;
 - iv. Alcohol odor on breath;
 - v. Uncoordinated walking or movement;
 - vi. Unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness;
 - vii. Possession of alcohol or drugs.

- c. Impairment: The supervisor shall directly observe the employee's behavior and document in writing the facts constituting reasonable suspicion. When circumstances permit, a second person shall also observe the employee to verify that there is a reasonable basis to believe that drug or alcohol impairment may be present. If possible, the supervisor shall question the employee with regard to the situation.
 - i. If it is concluded that there is reasonable cause to believe that drug or alcohol consumption is involved, the supervisor or appropriate manager shall relieve the employee from duty and have a drug or alcohol test administered.
 - ii. Failure of an employee to take the test(s) may be cause for disciplinary action. The City may also have the employee undergo a physical examination at City expense at the time that the drug or alcohol test is administered. The test(s) must be conducted within a reasonable time period after the observation of the problem behavior.

- y. The supervisor shall immediately notify the department head, or in his/her absence, the designee. In the event that this person is not available, the supervisor shall immediately contact the Human Resources Director &/or designee for review. Upon review, the department head or designee, or in his/her absence the Human Resources Director &/or designee or designee, may authorize the supervisor to require a drug test.

- z. Random Testing: During the calendar year, 50% of all CDL holders will be tested on a random basis for the presence of drugs and alcohol. Approximately quarterly, although testing could occur anytime during the year, names of CDL holders will be drawn randomly using a computer program to select individuals for drug and alcohol testing. These individuals will be scheduled for testing. All individuals will be required to go to a collection site for drug and alcohol testing. No advance warning will be given to employees regarding the date and time of the random test.

- aa. Individuals who are scheduled to drive a CDL vehicle or perform a safety-sensitive function (such as a mechanic working on a Police or Fire vehicle, working brakes, etc.) on the day of the random test shall also take a breath test for alcohol. Test results and the handling of any positive tests are the same as noted above for all employees.

- bb. Any accident involving a commercial motor vehicle must be reported as soon as possible by the employee to his/her supervisor. The supervisor should investigate the circumstances of the accident and determine if there is reasonable suspicion to require a drug and alcohol test. Testing is mandated in the following circumstances:
 - i. An accident that has resulted in the loss of human life.
 - ii. An accident in which the driver receives a citation and there is an injury requiring medical attention away from the scene of the accident.
 - iii. An accident in which the driver receives a citation and any vehicle in the accident must be towed from the scene.

- cc. An individual in a safety-sensitive position, such as a mechanic, is subject to drug and alcohol testing, when in the opinion of a supervisor, employee performance caused or contributed to the accident. For example, a mechanic would be tested when he/she worked on CMV brakes just prior to an accident and a brake problem may have contributed to the accident.

- dd. A post-accident drug and alcohol test should be completed as soon as possible. Drug testing must occur no later than 32 hours after the accident. Alcohol testing must occur no later than 8 hours after the accident. If more than two hours elapse before an alcohol test is administered, the City is required to prepare and maintain on file an explanation of why a test was not properly administered for the FHWA.

- ee. A driver is prohibited from consuming alcohol for 8 hours after an accident, or until he/she has taken a drug and alcohol test.

- ff. **Note:** A law enforcement officer investigating an accident has legal authority under certain circumstances to order a blood sample to be taken for drug and alcohol testing.

- gg. Return to Work Testing: When an employee has tested positive for drugs or alcohol during a random or post accident test, the same provisions apply as for all employees in the section above on *Discipline and/or Treatment/Rehabilitation*. In addition, the following specific rules apply:
 - i. Employees will be referred to the EAP program or to other substance abuse counseling as part of their return to work requirements.
 - ii. The employee must comply with any recommended rehabilitation.
 - iii. The employee must have a negative retest before being permitted to return to work.
 - iv. Unannounced follow-up tests will be conducted at least 6 times within the first 12 months after an employee returns to work.
 - v. Testing may be extended for a period of up to 60 months after return to work.

- hh. Drug and Alcohol Testing: A drug test under this policy is a urinalysis (for drugs) and an evidential breath test (for alcohol) administered under approved conditions and procedures conducted for the sole purpose of detecting drugs and alcohol. Other methods to detect the presence of alcohol may be added at a later date if

approved by the FHWA, including blood/alcohol and saliva tests. The tests will be conducted by a City-appointed medical laboratory and paid for by the City, except in the case of retests required under a return to work agreement.

- ii. Following authorization for reasonable suspicion or post-accident drug testing, the supervisor or other authorized person will transport the employee to the designated laboratory.
 - i. In the case of an applicant for employment or follow-up testing, the individual shall appear at the designated laboratory at the time instructed by the Human Resources Director &/or designee /Program Manager. An opportunity to have the original urine sample retested at the applicant's expense shall be afforded. The applicant must request a retest within 72 hours. If there is a confirmed positive test, the Human Resources Director &/or designee /Program Manager shall notify the department head and the applicant shall be removed from eligibility for hire.
 - ii. The subject (employee or applicant) will be interviewed by laboratory personnel prior to the sample collection to determine whether the subject is currently using drugs under medical supervision and/or taking over-the-counter medications which might reasonably impact the test.
 - iii. The room where the sample is obtained must be private and secure. Documentation shall be maintained that the area has been searched and is free of any foreign substance. For all general employees, CDL holders, and individuals tested under the reasonable suspicion standard no observer shall be present when the sample is collected. Procedural actions shall be taken in all tests to ensure the sample is from the subject and was actually passed at the time noted on the record.
 - iv. Processing Urine Samples: Each step in the collection and processing of the urine specimen shall be documented to establish procedural integrity and the chain of custody. Unless specifically noted, all testing whether for CDL or other city employees, will be done using SAMHSA procedures and threshold levels.
 - v. Split Sample Testing Method must be used and specimen samples shall be sealed and labeled. Samples shall be stored in a secure and refrigerated atmosphere. A large enough sample will be taken to allow for a second, follow-up test.
 - vi. Any sample which has been adulterated or is shown to be a substance other than urine shall be reported as such. Any applicant or employee providing false information about a urine or breath specimen or who attempts to contaminate such sample shall be subject to removal from consideration for hiring or termination.

- jj. Results of Drug Testing: The laboratory will review the results of the test and determine if the sample contains any illegal drug or legal drug or alcohol at levels that would cause impairment or reveal its use in an illegal manner. The lab director will also review the medical history made available by the subject when a confirmed positive test could have resulted from a legally prescribed medication.
- kk. For all CDL holders, mechanics and City employees, the results shall be forwarded immediately to the City Medical Review Officer (MRO) for further review. The Human Resources Director &/or designee /Program Manager will send a copy of the drug testing results to the employee's home address.
- ll. Drugs Tested: The laboratory shall test for the following drugs at levels that meet or exceed the limits hereafter set forth:

<u>Drug</u>	<u>Screening Level</u>	<u>Confirmation Level*</u>
Amphetamines (Methamphetamines)	1000 ng/ml	500+ ng/ml
Cocaine Metabolites	300 ng/ml	150+ ng/ml
Opiates(Morphine, codeine)	300 ng/ml	300+ ng/ml
PCP (Phencyclidine)	25 ng/ml	25+ ng/ml
THC (Marijuana)	100 ng/ml	15+ ng/ml
Alcohol	----- 0.02**	

* SAMHSA specified threshold.

** Tested through an evidential breath test instrument at a level of .02 alcohol/breath concentration or greater, expressed in terms of grams per 210 liters of breath.

- mm. Evaluation of Legal Drug Use: In the case of prescription drug use that may affect an employee's ability to perform his/her job safely, the laboratory director or, in the case of employees and all CDL testing, the City's designated Medical Review Officer, will require the subject to provide, by the next scheduled work day a bona fide verification of a valid current prescription for the drug identified. The applicant shall be dropped from eligibility or the employee will be subject to disciplinary action when:
 - i. Verification of a valid prescription is not provided and the employee has not previously notified his or her supervisor;
 - ii. The prescription provided is not in the subject's name.
- nn. Alcohol Level at .02: When there is a confirmed presence of any illegal drug, or legal drug or alcohol (equal to or greater than .02) or in the case of legal drugs, for which in the opinion of the Lab Director or City-designated Medical Review Officer (MRO), no reasonable explanation or proof is provided, the subject shall be deemed to have failed the test. When there is a confirmed presence of alcohol at the .02 level, the employee is deemed to be unable to safely operate a motor vehicle, operate machinery or perform safety-sensitive work.

- oo. If these tasks are part of an employee's job (in the opinion of the supervisor), he/she will be considered unable to work and will be sent home for the remainder of his/her work shift. The individual will be required to take leave without pay. The employee will not be permitted to take sick leave, vacation, or compensatory time. The employee may return to work after a period of 24 hours or at the beginning of their next work day or shift (whichever period of time is greater) or after another test shows a breath alcohol level of below .02. Under this policy, a breath alcohol test of between .02 and .039 would be considered a positive test but will not result in disciplinary action other than taking leave without pay for the remainder of his/her work day(s) or shift.
- pp. Employees: The employee shall be advised of the positive test result by the City Medical Review Officer. The employee shall be afforded the opportunity to have the *original* urine sample retested. Retests must be requested within a period of 72 hours after notification of an initial positive test by the MRO.
- qq. Positive test results: Employees who have been tested for drugs and alcohol, where substance abuse was found, shall be suspended pending further investigation which may include disciplinary action up to and including termination.
- rr. A retest will be done by the original lab (at the City's expense) unless the employee wishes to pay for a retest at a different laboratory. The second test must be done by a SAMHSA certified lab. If the subject declines a retest, or, the retest confirms the results of the initial test, the Human Resources Director &/or designee /Program Manager shall be notified. The Human Resources Director &/or designee /Program Manager shall notify the department head of the results and a determination of appropriate action will be made.
- ss. Discipline: As with any issue of employee misconduct, an appropriate investigation and assessment of circumstances will be conducted with guidance from the City Manager, the City Attorney and Human Resources Director. Advice from medical professionals may be sought. A decision to refer for substance abuse evaluation, treatment and/or discipline may be made depending on the nature and severity of misconduct, the employee's work history, and other pertinent facts and circumstances. In certain situations, follow-up drug testing may be recommended and conducted to ensure the employee remains drug and alcohol free.
- tt. Any disciplinary action will be carried out in accordance with City Personnel Policies, other applicable rules and regulation, and applicable union contract agreements.
- uu. Where appropriate the employee shall be referred to a treatment program agreed upon by the Union and the Employer. Once the inpatient part of the program has been completed, the employee may be re-employed but only with a written release from a physician. Where it is prescribed by a physician and/or a treatment program, drug testing may be included as a part of that treatment program.

- vv. An employee who is returned to work as provided for under this procedure who fails to comply with any of the terms of an agreed upon treatment and/or return to work agreement may be subject to the full range of disciplinary action, including termination.
- ww. An employee who is the subject of an investigation related to substance abuse may have a union representative or another employee present during the investigative procedures outlined above. Disciplinary actions taken by the City under this procedure shall be subject to the Grievance Procedure of the Labor Agreement
- xx. The City, the employee and the union, where applicable, shall work cooperatively to facilitate the resolution of problems that arise under the administration of this policy. When appropriate, the employee and the City shall enter into joint agreements that establish the form of treatment and the conditions that will be imposed for the return of an employee to the work place. If the conditions for returning to work include a negative drug or alcohol test, the costs of such follow-up testing shall be borne by the affected employee.
- yy. A referral for evaluation by a substance abuse professional is mandatory for CDL holders when there is a positive test.
- d. Negative Test Results. Employees who have been tested for drugs and alcohol, where no substance abuse was found, shall receive notice of such findings from the Human Resources Director &/or designee.
 - i. A copy of this notice will not be placed in their personnel file, unless requested by the employee.
 - ii. The record of the negative results shall be placed in a confidential folder in a separate, secured file maintained by the Human Resources Department.
 - iii. There shall be no loss of pay or benefits.
 - iv. Where appropriate a signed physician's release may be required by the Employer before the employee is returned to work. Time lost due to an illness will be charged to sick leave.
 - v. If the behavior that led to the initial investigation is not due to substance abuse but continues to hinder job performance, the City may require the employee to undergo further medical evaluation at the employee's expense.
- zz. In the case of job applicants (except Police and Fire), the department shall be notified by the Human Resources Director &/or designee /Program Manager that the applicant is clear for hire.
- aaa. Confidentiality: Laboratory reports of positive test results shall not appear in an employee's general personnel folder. Information of this nature will be placed in a separate confidential medical folder that will be maintained by the Human Resources Director &/or designee /Program Manager.

bbb. The positive reports or test results shall be disclosed to the department head only on a need-to-know basis. Disclosures without patient consent, may also occur when:

- i. The information is compelled by law or by judicial or administrative process;
- ii. The information has been placed at issue in a formal dispute between the City and the employee;
- iii. The information is to be used in administering an employee benefit plan such as for drug or alcohol treatment;
- iv. The information is needed by medical personnel for the diagnosis or treatment of the patient (employee) who is unable to authorize disclosure.

ccc. Record Retention Requirements: The City shall maintain all records related to drug and alcohol testing for each driver in a secure location with controlled access and keep all documents sent by the laboratory or the collection site. The following records shall be maintained for a minimum of five years:

- i. Records of alcohol test results indicating an alcohol concentration of .02 or greater;
- ii. Records of verified positive drug test results;
- iii. Documentation of refusal to take required alcohol and/or drug tests;
- iv. Evaluations and referrals;
- v. Copy of annual report.
- vi. Records related to alcohol and drug collection process and training shall be maintained for a minimum of two years.
- vii. Records of negative and canceled drug test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.
- viii. No records containing driver information required by this policy will be released except as provided as follows:
 - ix. Upon written request of the employee;
 1. Upon written authorization of the employee, records will be disclosed to a subsequent employer subject to use as specified by the employee;
 2. Upon specific, written authorization by the employee, records will be released to an identified person, for use only as specified by the employee;
 3. Records may be disclosed to a decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee, including, but not limited to, a worker's compensation, unemployment compensation or other proceeding relating to a benefit sought by the driver.

EFFECTIVE: JANUARY 1, 1996 DATE: DECEMBER 18, 1995

REVISED: May 11, 2000

**DRUG AND ALCOHOL TESTING
(ATTACHMENT 1)**

Definitions

Accident - an occurrence involving a City of Kalispell commercial motor vehicle (CMV) operating on a public road

AND EITHER - involves a fatality;

OR - moving violation is issued to the CMV driver;

AND EITHER - involves injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;

OR - one (1) or more motor vehicles incurs disabling damage as a result of the accident requiring the vehicle to be towed away by a tow truck or other vehicle, or if it were driven, it would be damaged more.

(Note: Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It does not include damage to tires even if a spare is unavailable, head or taillight, turn signal, horn or windshield damage.)

Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (AC) - means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

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

Commercial motor vehicle (CMV) - a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

- has a gross vehicle weight rating of 26,001 or more pounds; or

- is designed to transport 16 or more passengers, including the driver; or

- is of any size and is used in the transportation of hazardous materials requiring placards.

Controlled substance - includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Also includes those substances listed a controlled substances under M.C.A. Title 50, chapter 32, part 2.

Driver - any person who operates a CMV. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle (Police and Fire department exempt).

Evidential breath testing device (EBT) - a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's September 1993 or later "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

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

Negative test - for drugs, a test with the amounts present that are at or below the minimum thresholds in 49 CFR Part 40, as amended. For alcohol, a concentration below 0.04.

On-duty time - All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work.

On-duty time shall include:

1. All time at a carrier or shipper plant, terminal, facility or other property, or on any public property, waiting to be dispatched, unless he/she has been relieved from duty by the motor carrier.
2. All time inspecting to make sure that the parts, accessories and emergency equipment are in good working order and ready for use or otherwise inspecting, servicing, or conditioning any commercial vehicle.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipment loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Performing a safety sensitive function - means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function. See items 1-6 above in the definition of on-duty time.

Positive test - for a drug test, an amount above the minimum thresholds in 49 CFR Part 40, as amended. For an alcohol test, a breath alcohol concentration at 0.04 or greater.

Refuse to submit - (to an alcohol or controlled substances test) means that a subject:

1. fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
2. fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or,
3. engages in conduct that clearly obstructs the testing process.

Reasonable suspicion - belief that the employee has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Safety sensitive functions - see items 1-6 in the definition of "**on-duty time**" above.

Substance abuse professional (SAP) - a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

SECTION 50-1

SUBJECT: PERFORMANCE EVALUATION

I. STATE OF POLICY:

- a. The Performance Evaluation is an integral part of the City's Pay and Classification Plan. This plan covers all city employees.
- b. A Performance Evaluation system is in place and may be in different formats for different classes of employees. Some positions then have supplements which relate to technical areas of their work.
- c. Subject to the needs of the department and City, each employee may be evaluated at least annually.
- d. Merit increases may be provided within each pay grade to provide a means of rewarding meritorious service. All merit increases require the consent of the City Manager.
- e. Provided the appropriate level of funding is budgeted by the Council, the extent of possible merit award shall be determined at the beginning of each fiscal year.

EFFECTIVE: Immediately

DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-2

SUBJECT: DATE OF HIRE/ANNIVERSARY DATE

I. PURPOSE:

To establish definitions and a policy for administering the date of hire and anniversary date for City employees.

II. STATEMENT OF POLICY:

- a. Date of hire shall mean the effective date of the individual's employment with the City.
- b. Anniversary date shall mean the date the employee began his/her employment in the most recent position.
- c. A regular employee who is promoted, demoted or transferred will have his/her anniversary date changed to the effective date of the promotion, demotion or transfer.
- d. A regular employee returning from a leave of absence without pay will have his/her anniversary date extended by the same length of time the employee was on leave without pay.
- e. There will be no change in an employee's anniversary date in the case of the reallocation of an employee's position to a new classification title, when there have been no recent, abrupt and/or significant changes in assigned tasks and responsibilities.
- f. An employee reinstated to the same position or a position in the same class following layoff from the City will have his/her anniversary period extended by the same length of time as the duration of the layoff.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 50-3

SUBJECT: DEMOTIONS

I. PURPOSE:

To establish a policy for demotions.

II. STATEMENT OF POLICY:

- a. An employee reassigned to a position in a lower classification regardless of the reason (disciplinary, in lieu of layoff, for reasons of disability or incapacity, department reorganization or other business reasons, etc.) will receive a cut in pay commensurate with the nature of the demotion as determined by the department head in consultation with the City Manager.
- b. Demotions do not change the person's date of hire. However, the anniversary date for future salary increases changes.
- c. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications.
- d. An employee being demoted shall be notified two weeks prior to demotion except in emergency situations.
- e. Any demotion to prevent layoffs may be revised when the employee's previous position is reopened.
- f. Persons demoted to new positions may be subject to a trial period for the new position as outlined in the Probation Policy, unless specifically waived by the City Manager's Office.
- g. Employees in position classifications which are downgraded (or upgraded) in salary to reflect changes in market conditions will retain their existing anniversary date for future step increases.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-4

SUBJECT: POSITION DESCRIPTIONS

I. PURPOSE:

To provide for position descriptions for all City positions.

II. STATEMENT OF POLICY:

- a. Position descriptions and job specifications shall be maintained by the Human Resources Department for all positions.
- b. The position descriptions shall include:
 - i. Class Title
 - ii. Pay Grade Number (if applicable)
 - iii. Union/Non-Union status
 - iv. Department
 - v. Division
 - vi. Effective Date
 - vii. General Purpose
 - viii. Supervision Received
 - ix. Supervision Exercised
 - x. Examples of Duties
 - xi. Minimum Qualifications
 - xii. Special Requirements
 - xiii. Selection Guidelines
 - xiv. Approval Signatures.
- c. The position description does not constitute an employment agreement between the City and employee, and is subject to change as the needs of the City and the requirements of the job change.
- d. Examples of duties listed in the position description are intended only as illustrations of the various types of work performed. The omission of specific statements of duties does not exclude them from the position if the work is similarly related or a logical assignment to the position.
- e. Updates or revisions to position descriptions will be handled in accordance with the Administrative Policy on RECLASSIFICATION PROCEDURE.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-5

SUBJECT: PROMOTIONS

I. PURPOSE:

To establish a policy for application and appointment to vacant positions by current employees.

II. STATEMENT OF POLICY:

- a. The City attempts to fill all vacant positions with qualified City employees, following a policy of upward mobility whenever possible.
- b. Employees are encouraged to apply for any vacancy for which they may qualify in accordance with the Administrative Policy on HIRING PROCESS.
- c. Selection of an employee for a promotion (or lateral transfer) is based on past work record, education, knowledge of the job duties, as well as time in service.
- d. When considering the promotion (or lateral transfer) of City employees having the same or similar qualifications, the position will be filled after considering the factors listed above.
- e. In cases where only one employee applies for a position and the person's abilities and qualifications are known to the hiring department, the formal selection process may be dispensed with upon concurrence of the Human Resources Department.
- f. No offer of promotion may be made to any employee prior to completion of the recruitment and selection process. Temporary assignments may be made by the department head for a specified time or assignment as necessary. Such appointments are made on "acting" basis and the employee returns to his or her regular position upon completion of the assignment. The actual salary for "acting" appointments is set by the department head in consultation with the Human Resources Department, pursuant to the Administrative Policy on WORKING OUT-OF-CLASSIFICATION.
- g. Unless otherwise provided by union contract, whenever an employee is promoted to a higher position, or whenever an employee's position is upgraded, said employee will enter the new grade/position at the entry level of the new position. In the event the entry level step of the new or upgraded position does not provide a salary increase of 5% or more, the employee shall enter at the next closest step which provides a salary increase of 5% or more. The new pay rate, upon promotion, shall not exceed the maximum of the new pay range.

- h. Promotions do not change the person's date of hire. However, the anniversary date for future pay increases will be revised to coincide with the promotion date.
- i. Persons so promoted will be subject to a trial period as outlined by the Probation & Trial Period Policy for the new position, unless specifically waived by the City Manager.
- j. Employees in position classifications which are upgraded (or downgraded) in salary to reflect changes in market conditions will retain their existing anniversary date for future step increases.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-6

SUBJECT: RECLASSIFICATION PROCEDURE

I. PURPOSE:

To establish City policy and procedures for the request, consideration, and approval of position reclassification.

II. STATEMENT OF POLICY:

- a. Revision of position descriptions and re-allocations within the classification plan shall be made as often as is necessary to provide current information on positions and classes.
- b. It shall be the duty of the Human Resources Department to examine the nature of all positions and to allocate them to existing or newly-created classes, to make changes in the classification plan as are made necessary by changes in the duties and responsibilities of existing positions, and to periodically review the entire classification plan and recommend appropriate changes in the allocations or in the classification plan.
- c. When a new position is requested by a department head or the duties of an old position are substantially changed, the department head shall submit a written recommendation to the Human Resources Department including justification for the reclassification, emphasizing changes in position responsibilities or requirements for qualifications (i.e. experience, education, certifications, etc.).
- d. The request will be reviewed by the Human Resources Department. If the request is justified, the budget impact will be determined, and reviewed by the City Manager,

who will approve/disapprove the reclassification. If approved, the Human Resources Department will take the necessary steps to effect the reclassification. No reclassification involving an upgrade of salary not requested and approved as part of the budget process will be effected without Council approval.

- e. If the City Manager's Office does not concur with the request, the department head will be provided with reasons. The City Manager shall be the final decision maker for all reclassification requests.
- f. If the requested action is for a downgrading of a position, and the City Manager's Office concurs, the City Manager's Office shall coordinate implementation steps.
- g. Any employee who considers his/her position improperly classified shall first submit a request in writing for reclassification to his/her department head who shall review the request and transmit it with written recommendation to the Human Resources Department.
- h. Re-grade comes about as a result of reclassification, and due to an overall increase/decrease in the responsibilities of a position, resulting in an increase/decrease in the monetary compensation (salary range) established for the position.
- i. A job audit is an analysis of the critical elements of a position against a predetermined formula for measuring the relative worth of a position and placement in the City's classification/pay schedule. Periodically, the City will conduct job audits to assure job classifications accurately reflect the current duties, responsibilities, and skills required for the position, as the workplace evolves.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-7

SUBJECT: TRANSFERS

I. PURPOSE:

To establish a policy for lateral transfers by City employees.

II. STATEMENT OF POLICY:

- a. All openings for City positions will be posted for a minimum of seven calendar days at each City facility.

- b. Any current employee (regular part-time or regular full-time) interested in applying for a transfer must file a completed City application form with the Human Resources Department in accordance with instructions listed on the employment opportunities notice.
- c. If the employee meets the stated requirements for the position he/she may proceed through the regular hiring procedures with all other applicants as described in the Administrative Policy on HIRING PROCESS. Transfers are made only when the City's service will benefit. Current City employment is one factor which may be considered in determining who will be selected to fill open positions.
- d. The personnel file of the transfer applicant will be made available to the department head responsible for filling the open position.
- e. If the current employee is selected, his/her department head will be advised prior to the offer being made to the employee.
- f. If the employee accepts the position, it will be the responsibility of the two department heads, along with the employee, to reach agreement on a transfer date. In the event satisfactory agreement cannot be reached on this matter, it will be forwarded to the City Manager's Office for a decision. Every effort should be made to accomplish the transfer within two weeks of the offer's acceptance.
- g. The salary offered to the employee must be consistent with the salary and requirements of the new position. Thus, an employee who meets only the minimum requirements for the position will be started at the bottom of the salary range regardless of the employee's current salary. Employees who exceed the minimum requirements for the position may be offered a salary consistent with the employee's level of skills, experience, and knowledge.
- h. Transferred employees, who are not on initial probation, will serve a trial period in his/her new position as outlined in the Probation & Trial Period Policy. Transfer employees remain eligible for all fringe benefits included with the previous position. If the position to which an employee transfers carries benefits different from those of the previous position, the benefits of the new position apply. Any exceptions must be stated in writing and be authorized by the City Manager.
- i. Transfers do not change a person's date of hire. However, the anniversary date for future step increases will be revised to coincide with the transfer date.
- j. Transfers may also be initiated by the City in instances where the City's best interests may be served.
- k. Additional information is included in the Administrative Policies on PROMOTIONS or DEMOTIONS.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 50-8

SUBJECT: PAY PERIODS

I. PURPOSE:

To establish a uniform pay period schedule for City employees.

II. STATEMENT OF POLICY:

- a. It is the goal of the Finance Office that each employee receive correct paychecks on a consistent schedule.
- b. Payments shall be made as directed by the City Manager. Although pay periods for individual departments may be different, all employees shall be paid at least monthly for the preceding month of employment.

III. TIME REPORTING PROCEDURE:

- a. Employees are responsible for completing their time report forms and giving them to their supervisors at the end of the pay period. Employees should make sure that their time sheet is correct before they sign it.
- b. Supervisors are responsible for certifying that time reports are correct by signing every time sheet.
- c. Time report forms for employees are due in the Finance Office of the Monday following the Sunday completing the work period for the respective employees.
- d. Paychecks for employees are issued on the Thursday following the Monday when time reports are due in the Finance Office.

IV. SPECIAL PAYROLL CHECKS DUE TO ERRORS:

- a. If an incorrect paycheck is issued because the supervisor or employee failed to post time rolls correctly, a special paycheck will not be processed. If an incorrect paycheck is issued because the Finance Office made an error in entering time and the time sheet was correctly posted, a special paycheck will be processed as soon as possible. All adjustments because of errors will be made no later than the following pay period.
- b. When an incorrect paycheck is issued (either overpayment or underpayment), the supervisor should notify the Payroll Office as soon as possible. The Finance Office requests that persons other than the supervisor or the affected employee not call to report incorrect payments.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 60-1

SUBJECT: VACATION LEAVE

I. PURPOSE:

To outline the policy on vacation leave.

II. STATEMENT OF POLICY:

a. ELIGIBLE EMPLOYEES:

i. Employees who have by statute met the six month qualifying period and are considered:

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

b. CALCULATION OF VACATION LEAVE CREDITS:

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

<u>Years Employed</u>	<u>Credits per Yr</u>	<u>If Part-time, on Leave Without Pay, or in a not employed status during portion of pay period</u>
Less than 10 yrs	120 hours	.05770 x hours worked
11 th yr-15 yrs	144 hours	.06924 x hours worked
16 th yr-20 yrs	168 hours	.08077 x hours worked
Over 20 yrs	192 hours	.09240 x hours worked

- ii. Overtime hours are not included in the calculation of vacation credits earned.
- iii. When calculating incomplete pay periods and part-time hours, final figures are rounded off to the hundredth of an hour.

c. RULES APPLIED TO VACATION LEAVE:

i. Employees begin earning leave credits the first day of employment in a job which had pre-scheduled hours to work.

- ii. Hours of work employees must be pre-scheduled to be eligible to earn vacation leave credits.
- iii. Vacation time taken off shall be recorded to the nearest quarter of an hour used.
- iv. No vacation leave with pay shall be granted in advance of credits earned.
- v. Vacation leave credits will not accrue while on leave without pay status, whether authorized or not, Family and Medical Leave, or while unable to work during periods of temporary disability.
- vi. Vacation leave must be arranged and approved in advance with the employees' supervisor. When the interest of the City requires the employees' attendance, the City's interest overrides the employees'.
- vii. Vacation leave credits may be accumulated to a total not to exceed two (2) times the maximum hours earned annually as of the end of the first pay period of the next calendar year.
- viii. Excess vacation time will not be forfeited if taken, or cashed out, or if retiring or resigning within ninety (90) calendar days from the last day of the calendar year in which the excess was accrued.
- ix. Employees who have not completed six (6) calendar months continuous employment upon termination may not cash out their vacation credits.
- x. Department heads may authorize vacation leave for employees for care of a newborn or adopted child.

d. HOLIDAY/VACATION LEAVE

Vacation leave taken over a legal holiday will not be charged against the employees' accumulated vacation leave total for the legal holiday.

e. VACATION LEAVE/SICK LEAVE

Vacation leave time may be substituted for sick leave time with the consent of the employee.

f. VACATION LEAVE/OVERTIME

Hours accounted for by leave time (i.e., not physically worked, such as compensatory leave, sick leave, vacation leave, holiday leave, etc.) shall not be considered hours worked for the purpose of calculating overtime hours earned in a workweek.

g. EMPLOYEE TERMINATION OR DISMISSAL

An employee who terminates employment for reason(s) not reflecting discredit on himself/herself shall be entitled to a lump sum payment at the current salary rate at the time of termination, for unused vacation leave provided the employee has worked the qualifying period of six (6) continuous calendar months.

h. TRANSFERRED EMPLOYEES

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

i. PRIOR SERVICE WITH ANOTHER MONTANA AGENCY

City employees who have been employed with another Montana agency, meaning any legally-constituted department, board or commission of state, county, or city government or any political subdivision thereof as defined in Section 2-18-612, MCA, may use that time towards their vacation accrual rate, provided:

- i. The employee obtains a Certification of Prior Employment Hours for Annual Vacation Leave Rate Earned from the Personnel Department.
- ii. The employee sends the form to the former employer(s) and it is certified by the appropriate governmental agency.
- iii. When the Human Resources Department receives the completed certification form, the employee will receive the additional time towards his or her vacation accrual rate. For the purpose of determining years of employment, an employee must be credited with an entire pay period in which he is in a pay status or on an authorized leave of absence with pay, regardless of the number of hours of service in the pay period.

1. It is the employee's responsibility to furnish all the necessary information to the Personnel Department.

j. QUALIFYING WORK PERIOD:

An employee must be continuously employed for the qualifying period of 6 calendar months to be eligible to use vacation leave. Unless there is a break in service, an employee is only required to serve the qualifying period once. After a break in service, an employee must again complete the qualifying period to be eligible to use annual vacation leave. "Break in service" is a period of time in excess of five (5) working days when the person is not employed by the City of Kalispell.

k. EFFECT OF EXTENDED LEAVE OF ABSENCE WITHOUT PAY ON QUALIFYING PERIOD:

If an employee has not worked the qualifying period of 6 months and takes an approved continuous leave of absence without pay exceeding 15 working days, the amount of time on leave of absence will not count toward completion of the qualifying period. The leave of absence exceeding 15 working days is not a break in service and the employee will not lose any accrued annual leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of 15 working days or less will be counted as time earned toward the 6 month qualifying period.

EFFECTIVE: Immediately

DATE:

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 60-2

SUBJECT: SICK LEAVE

I. PURPOSE:

- a. To outline the policy of sick leave.

II. ELIGIBLE EMPLOYEES:

- a. Regular Full-Time
- b. Regular Part-Time (hours pro-rated)
- c. Temporary Full-Time
- d. Temporary Part-Time (hours pro-rated)
- e. Seasonal Employees (hours pro-rated).

- i. Hours of work for above employees must be pre-scheduled to be eligible to earn sick leave credits.

- f. Regular, seasonal, and temporary employees will be eligible to accumulate sick leave credits from the first day of employment and use them, with pay, after ninety (90) days of continuous employment.

III. CALCULATION OF SICK LEAVE CREDITS:

- a. Sick leave credits shall be earned at a yearly rate calculated in accordance with the following schedule, in which one (1) year equals 2,080 hours of work:
 - i. 40 hours x 52 weeks = 1 year.

- b. There is no restriction as to the number of hours of sick leave credits that may be accumulated, nor to the number of accrued sick leave credits that may be used for a bona fide employee illness or disability, provided that the qualifying period has been completed.

<u>Period of Employment</u>	<u>Working Hours Credit</u>
Each 1 year of employment	96 hours
Not in employed status entire worked pay period, on leave without pay, or part-time employee.	.0462 x number of hours

- c. Overtime hours are not counted in the calculation of sick credits earned.

- d. When calculating incomplete pay periods and part-time hours, final figures are rounded off to the hundredth of an hour.

IV. RULES APPLYING TO SICK LEAVE:

- a. Sick leave credits accrue from the first day of employment in a position which has pre-scheduled hours of work.
- b. Unless there is a break in service as defined below, an employee only serves the qualifying period once. After a break in service, an employee must again complete the qualifying period to use sick leave. The qualifying period is ninety (90) days.
 - i. "Break in service" is defined as a period in excess of five (5) working days when the employee is not employed by the City of Kalispell.
- c. Sick leave time taken will be recorded to the nearest quarter of an hour used.
- d. No sick leave with pay will be granted in advance of credits earned.
- e. Sick leave credits will not accrue while on leave without pay status, whether authorized or not, Family and Medical Leave, or while unable to work during periods of temporary disability.
- f. The City Human Resources Department, the employee's Supervisor or Department may request the employee claiming or using sick leave to substantiate their claim with proper medical certification.

V. SICK LEAVE MAY BE GRANTED FOR:

- a. Illness;
- b. Injury;
- c. Medical disability;
- d. Maternity-related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either the employee, a child, or spouse.
- e. Quarantine resulting from exposure to contagious disease;
- f. Medical, dental, or eye examination or treatment;
- g. Hospitalization;
- h. Necessary care or attendance to an immediate family member or, at the Department head's discretion, another relative, for the above reasons until other attendance can be reasonably obtained; and,
- i. Death or funeral for an immediate family member, or at the Department head's discretion, another person.

VI. HOLIDAY/SICK LEAVE

Sick leave taken over a legal holiday will not be charged against the employee's accumulated sick leave for the legal holiday. Exceptions may be made for employees scheduled to work the holiday (i.e., emergency services). Proper medical certification may be required to substantiate such illness.

VII. SICK LEAVE/VACATION LEAVE

If all sick leave credits have been used, an employee who is eligible, and with the department head's approval, may use vacation leave.

VIII. SICK LEAVE/OVERTIME

Hours accounted for by leave time (i.e., not physically worked, such as compensatory time, sick leave, vacation leave, holiday leave, etc.) shall not be considered hours worked for the purpose of calculating overtime hours earned in a work week.

IX. TERMINATION OF EMPLOYEE

An employee who terminates employment for reasons not reflecting discredit is entitled to a lump sum payment at the current salary rate at the time of termination equal to one-fourth (1/4) of the pay attributed to the accumulated sick leave, provided the employee has worked the qualifying period of ninety (90) continuous days.

X. ABUSE OF SICK LEAVE

- a. The employee sick leave program is designed to provide employees with two benefits:
 - i. Available paid leave for a reasonable amount of short-term illnesses, and;
 - ii. Provide a savings bank of time to ensure available paid leave for long-term illnesses. Employees are responsible for the appropriate use of their sick leave.
- b. In order to ensure that the sick leave program is being utilized for both purposes, all city employees are monitored to ensure that their use of sick leave benefits are not abused, this also includes "excessive usage" which is defined as follows:
 - i. Sick Leave Abuse means misrepresentation of the actual reasons for charging an absence to sick leave, and may include chronic, persistent, or patterned use of sick leave not defined as a Family Medical Leave Act (FMLA) qualifying or American Disabilities Act (ADA) event. Indications of sick leave abuse may include but are not limited to the following:
 1. A pattern of using sick days the day before, or the day after, regularly scheduled days off of Holidays.

2. Continued call-ins for illness on Holidays for which the employee is scheduled to work.
 3. A pattern of sick leave on the same day of the week, or month.
 4. A pattern of using sick leave on, or the day after, payday.
 5. An employee's use of a majority of or all of his/her earned sick leave, unless obvious mitigating circumstances are present.
 6. Witnessing of an employee's activities while on sick leave which indicates that he/she is not using sick leave properly; such as recreating, attending social functions or performing alternative work.
- c. Employees who engage in sick leave abuse, and/or show a pattern of failing to notify their supervisor of absences may be subject to corrective discipline up to and including discharge.
 - d. This section would not apply to employees who have depleted their leaves due to long term confirmed chronic medical problems as defined under FMLA or the ADA, which may result in numerous absences from their job through no fault of their own. These cases will be evaluated on a case-by-case basis as to the appropriate city action.
 - e. Reprimand and Discipline.
 - i. Once an employee has been identified as having abusing sick leave usage, as defined above, the employee normally will first be counseled by their supervisor advising them of the policy related to abuse of sick leave.
 - ii. Absences improperly charged to sick leave may, at the agency's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the agency.
 - iii. Continued abuse following the first counseling session will result in discipline up to and including discharge as provided in 2-18-618, MCA, and forfeiture of the lump-sum payment.

XI. TRANSFERRED EMPLOYEES

If an employee is transferred between departments, the employee will not be entitled to a lump sum payment for accrued sick leave credits.

- a. The department receiving the transferred employee shall assume the liability for the accrued sick leave credits transferred with the employee.

XII. DONATION OF SICK AND VACATION LEAVE

- a. Employees who are eligible to use their accrued sick or vacation leave may donate sick and vacation leave hours to be used by another employee who does not have sufficient leave credits to remain in an active pay status during an extended absence due to illness or injury.

- b. Donating employees may donate sick or vacation leave hours on a one-for-one basis. This donation cannot result in a budget deficit or request for supplemental funding by the recipient's department.
- c. The donation is based on the number of hours (credits), not on rate of pay.
- d. One donated credit will be subtracted from the donating employee's sick or vacation accruals for every credit added to the recipient employee's sick leave credit accumulation.
- e. Employees may donate up to twenty (20) hours of sick and/or vacation leave to an individual employee, and up to forty (40) hours total sick and vacation leave during a twelve-month period.
- f. Donating employees must have minimum balance of one hundred sixty (160) hours of sick leave credit remaining after the contribution. There is no minimum balance for vacation leave.
- g. The donation of credits, once made, cannot be rescinded by the donating employee, subject to the qualification in paragraph 6, below.
- h. Credits not used by the recipient employee will be returned to the donating employee when the recipient employee returns to work, completes his/her recuperation, or terminates employment with the City. Credits will be returned in the reverse order of their donation.
- i. Employees may receive a total of 240 credit hours of donated sick leave per twelve-month period. For purposes of this section, the twelve-month period begins with the pay period of the first draw of donated leave.

XIII. RECEIPT OF DONATED SICK VACATION LEAVE.

- a. One sick leave credit will be added to the recipient employee's sick leave account for every sick and vacation leave credit donated.
- b. An employee may receive a total of 240 credit hours of donated leave credits per twelve-month period.
- c. To be eligible to receive donations of sick leave credits, an employee:
 - i. Must be eligible to use sick leave;
 - ii. Must have an illness, injury, or other qualifying condition, as described in Section 60-02(C), that results in absence of at least ten working days;
 - iii. Must have exhausted all other accrued paid leave and compensatory time;

- iv. Must have their department head's approval for the leave. The Department head may require medical certification;
- v. Must not be eligible for Worker's Compensation benefits; and,
- vi. Must be an employee of the City of Kalispell.

XIV. EFFECT OF EXTENDED LEAVE OF ABSENCE ON QUALIFYING WORK PERIOD:

When an employee who has not worked the qualifying period for use of sick leave takes an approved continuous leave of absence without pay exceeding 15 working days, the amount of time on leave of absence will not count toward completion of the qualifying period. The approved leave of absence exceeding 15 working days is not a break in service and the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of 15 working days or less will be counted as time earned toward the 90-day qualifying period.

XV. SICK LEAVE REQUESTS:

- a. It is City policy for employees to report illnesses to supervisors or other department officials at the earliest possible time. Employees who do not report to work and fail to notify their supervisors will be considered AWOL (Absent Without Leave) and may not be paid for time off.
- b. The employee's immediate supervisor or department head may require medical certification of sick leave charged against any sick leave credits.
- c. Medical certification may also be required to certify that the illness of a family member required the immediate attention of the employee.
- d. Medical certification of maternity-related sick leave must be obtained in the same manner and under the same conditions as certification for other sick leave.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 60-3

SUBJECT: PERSONAL DAY

I. PURPOSE:

- a. To provide for the uniform administration of Personal Days

II. STATEMENT OF POLICY:

- a. After one year of service with the City, regular full-time employees are entitled to paid time off for one (1) personal leave day per fiscal year and regular part-time employees will receive paid time off on a pro-rata basis.
- b. This is a non-accrual day per fiscal year and must be scheduled three (3) days in advance with the employee's supervisor. Granting of the day's leave to an employee is contingent upon the work being covered by the remainder of the employees in the department so that no substitute help will have to be hired.

EFFECTIVE: Immediately DATE: September 15, 2003

Resolution #4832

SECTION 60-4

SUBJECT: HOLIDAYS AND HOLIDAY PAY

I. PURPOSE:

To provide for the uniform administration of City holidays.

II. STATEMENT OF POLICY:

Regular full-time and temporary full-time employees with a regularly scheduled tour of duty are entitled to paid time off for all recognized legal holidays. Regular part-time employees will receive holiday pay on a pro-rata basis.

III. CITY-RECOGNIZED LEGAL HOLIDAYS:

- a. New Year's Day, January 1
- b. Martin Luther King Day, third Monday in January
- c. Presidents' Day, third Monday in February
- d. Memorial Day, last Monday in May
- e. Independence Day, July 4
- f. Labor Day, first Monday in September
- g. Veterans' Day, November 11
- h. Thanksgiving Day, fourth Thursday in November
- i. The Day After Thanksgiving Day
- j. Christmas Day, December 25
- k. State General Election Day (Even numbered years)
- l. Good Friday, 2 hours

IV. If any of the above holidays fall on a Sunday, the following Monday is a holiday. If the holiday falls on a Saturday, the preceding Friday is a holiday.

V. An employee who is scheduled for a day off on a day which is observed as a legal holiday shall be entitled to receive a day off with pay either on the day preceding or on another day following the holiday in the same pay period or as soon as possible in the following pay period.

VI. To receive holiday pay, the employee must be in pay status on the day before the holiday or on the day after the holiday, Section 2-18-603, M.C.A. On-call employees are not entitled to paid holidays unless they work the holiday.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution #4832 - September 15, 2003

SECTION 60-5

SUBJECT: LEAVE OF ABSENCE WITHOUT PAY

I. PURPOSE:

- a. To establish procedures by which an employee may request a voluntary leave of absence from employment with the City.
- b. To establish conditions under which approved requests for a voluntary leave of absence are administered.
- c. To formalize past city practice regarding employment of city employees on extended temporary disability leave, resulting from work-related illness or injury to the employee.

II. STATEMENT OF POLICY:

- a. Voluntary Leaves Without Pay-Employee "Sabbaticals."
 - i. Requests for a voluntary leave of absence without pay shall be in writing and shall state specifically the reasons for the request, the date desired to begin the leave, and the date of return. The request shall normally be submitted by the employee to the affected department head. The department head shall recommend to the City Manager whether the request should be granted, modified, or denied. The City Manager shall then make a decision based upon the best interest of the City, giving due consideration to the reasons given by the employee, and the requirements of any applicable state and federal laws.
 - ii. The City Manager may grant a full-time regular employee a leave of absence without pay not to exceed ninety (90) days for non-medical purposes. Non-medical leave is unpaid leave time for career advancement, personal or family situations. Such leaves may be granted after vacation accrual has been exhausted. Sick leave accruals may not be used for non-medical leaves.
 - iii. No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on leave of absence without pay.
 - iv. All time in leave of absence is credited toward an employee's service time for the purpose of determining their earning rates. Service to the City is not interrupted by authorized leave of absence.
 - v. Time on leave of absence is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
 - vi. Any employee on an approved leave of absence may continue his or her medical, dental and optical insurance coverage by paying the full cost to the City in advance for each month or portion thereof for which he or she is absent, subject to limitations set by the insurance carrier.

- vii. Upon expiration of the leave of absence, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.
 - viii. Upon extenuating circumstances, the appointing authority may grant an extension of a leave period upon written request by the employee. Such extension may not exceed three months and will be based on departmental as well as employee considerations.
 - ix. Employees who fail to return to work on the date specified in the leave request without receiving an extension in advance are subject to disciplinary action up to and including termination.
- b. Extended leaves of absence resulting from work-related illness or injury.
- i. Leaves of absence for temporary disability resulting from work-related illness or injury lasting more than thirty (30) consecutive days, shall be considered extended disability leaves of absence without pay under this policy.
 - ii. Any city employee suffering a work-related illness or injury for which Worker's Compensation wage loss benefits are paid for more than thirty (30) consecutive days, shall be entitled to request a leave without pay for up to twelve (12) months, inclusive of leave time permitted under the city's policy for Family and Medical Leave (FMLA). Medical certification of the condition shall be submitted to the city and may be executed by a person licensed by the State of Montana to practice medicine, osteopathy, podiatry, dentistry, clinical psychology, optometry, or chiropractic, or by a nurse practitioner or nurse midwife authorized by State law, or Christian Science practitioners appropriately listed.
 - iii. Such extended leave requests shall be made, in writing, to the affected employee's department head, who will then review and forward such request to the City Manager, together with a recommendation, taking into consideration the affected department's staffing needs and burdens placed on other employees. The City Manager shall then make a decision regarding the employee's status based upon the best interest of the City, giving due consideration to the reasons given by the employee, and the requirements of any applicable state and federal laws.
 - iv. Extended temporary disability leave without pay will be considered or granted only after the affected employee has exhausted all accrued sick leave, vacation leave, compensatory time, and FMLA benefits.
 - v. If granted, the employee shall submit physician re-certifications of the medical condition no more than once each thirty (30) days while on leave.
 - vi. Re-certifications may be obtained earlier than every thirty (30) days if:
 1. circumstances described by the previous certification have changed significantly (e.g., duration, frequency, or severity of the condition); or
 2. the employer receives information that casts doubt on the employee's stated reason for the absence.

- vii. Before returning to work, the employee must receive full medical clearance from a physician confirming his ability to perform all necessary duties of his former position.
 - viii. It is a condition of employment with the City, that the employee be able to perform essential duties of his job. If, after the affected employee has been on extended leave for a period of twelve (12) consecutive months the affected employee is unable to obtain the required medical clearance and there exists no reasonable accommodation(s) as defined by the American Disabilities Act without undue hardship on the City and employee, the employee's position will be deemed vacated by the City and his employment with the City will be terminated.
 - ix. If the injured employee is capable of returning to work within two (2) years from the date of occupational illness or injury and has received a medical release to return to work, the employee will be entitled to reapply for job openings with the City, and will be and will be given preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational ability.
- c. Other rules applicable to extended disability leave.
- i. No sick leave, holiday, vacation benefits or any other fringe benefits shall accrue while the employee is on disability leave of absence without pay.
 - ii. All time in disability leave of absence is credited toward an employee's service time for the purpose of determining their earning rates. Service to the City is not interrupted by authorized leave of absence
 - iii. Time on disability leave of absence is not allowed in computing service time for retirement purposes under Public Employees' Retirement System.
 - iv. Any employee on an approved disability leave of absence may continue his or her medical, dental and optical insurance coverage by paying the employee's share of the cost to the City in advance for each month or portion thereof for which he or she is absent, subject to limitations set by the insurance carrier.
- d. Upon expiration of the disability leave of absence, the employee shall be reinstated in the position held at the time the leave was granted or another equivalent position.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 60-6

SUBJECT: ABSENCE WITHOUT LEAVE

I. PURPOSE:

To establish a policy of absences from work without permission.

II. STATEMENT OF POLICY:

- a. "Absence without leave" is defined as any period of time away from an employee's job which is not approved by the employee's supervisor or other appropriate authority.
- b. Employees are required to notify their supervisors or other appropriate department authority of the reason for absences as soon as possible. Failure to follow this policy is grounds for disciplinary action.
- c. Extended absence without leave is considered to be abandonment of position and an employee will be terminated. "Extended absence" shall be defined as four (4) consecutive working days, for purposes of this policy.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: May 11, 2000

SECTION 60-7

SUBJECT: MILITARY LEAVE

I. PURPOSE:

- a. To establish procedures for requesting and accounting for leaves of absence by employees of the City for participation in obligations with the United States Armed Forces.

II. STATEMENT OF POLICY:

- a. The City of Kalispell shall comply with all provisions outlined in the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 USC Sec. 4301, [4321] et seq) as well as all relevant state laws (to include Montana Military Service Employment Rights Act, MCA 10-1-1001 to 10-1-1027 et seq) as well as all relevant state laws covering members of the Montana Army and Air National Guard.
- b. An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for a period of six months shall be given leave of absence with pay for a period of time not to exceed 15 working days in a calendar year. It can be for attending regular encampments, training cruises, and similar training programs of the military forces of the United States.
 - i. This leave will not be charged against the employee's annual vacation time. Employees employed less than six months are entitled to unpaid leave for the purposes listed above.
 - ii. Military leave does not include regularly scheduled drills (Active Duty for Training - ADT).
 - iii. An employee can carry over a maximum of 15 days into the next fiscal year.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 60-8

SUBJECT: JURY DUTY

I. PURPOSE:

- a. To provide for the uniform administration of employees serving on juries.

II. STATEMENT OF POLICY:

- a. Employees will be allowed necessary time off without loss of pay for jury duty or when summoned to appear or participate in any court case or administrative hearing.
- b. Fees paid to the employee for such appearances shall be turned in to the City Human Resources Department or the employee may take annual leave and retain the fee. Employees may keep reimbursements for parking, mileage and meals.
- c. Employees must notify their supervisors and complete a Request for Leave as far in advance as possible.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 60-9

SUBJECT: FAMILY AND MEDICAL LEAVE

I. Purpose

- a. This policy outlines the basic procedures governing Family and Medical Leaves. Family and Medical leaves are unpaid, job-protected leaves of absence by employees for child care, personal medical care, family medical care and certain other circumstances.
- b. This policy is intended to implement the Federal Family and Medical Leave Act (“FMLA”), as amended which became effective on January 16, 2009. It is intended to be interpreted and applied consistently with those laws.

II. Eligibility

- a. An employee will be eligible to seek a Family and Medical Leave if:
 - i. the employee has worked for the City for at least twelve (12) months; and,
 - ii. the employee has worked for the City for at least 1,250 hours during the 12 months;
 - iii. In certain circumstances, separate periods of employment are aggregated for purposes of meeting the 12-month requirement. Additionally, any time that the employee would have worked for the City but for his or her Armed Forces (including National Guard or Reserve) obligations is counted toward the 1,250 hour requirement for Family and Medical Leave.
 - iv. The employee and spouse, if both employed by the City, are each eligible for up to twelve (12) weeks FMLA leave to care for a covered service member with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.
 1. The FMLA defines a child (“son or daughter”) as a “biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing “in loco parentis”, who is— (A) under 18 years of age; or (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.”
 - a. “In loco parentis” is commonly understood to refer to a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption. The FMLA regulations further defines “in loco

- parentis” as including those with day-to-day responsibilities to care for and financially support a child.
2. Individuals claiming in loco parentis may be required to submit in writing confirming this status with the child.

III. Types of Family and Medical Leaves

For purposes of this policy, the term “Family and Medical Leave” refers to the leaves of absence under the FMLA. Eligible employees may qualify for any of six types of Family and Medical Leaves. Throughout this policy, the terms “Family and Medical Leave” and “FMLA Leave” refer to any of the following six types of leaves:

- a. Pregnancy Leave
 - i. An employee may take Pregnancy Leave due to incapacity due to pregnancy, prenatal medical care or child birth.
 - ii. Pregnancy leave will run concurrently with FMLA leave.
- b. Birth, Adoption and Child Care Leave
 - i. An employee may take a Birth, Adoption and Child Care Leave to care for his or her child after birth, or for placement with the employee of a child for adoption or foster care. The leave must be completed within 12 months of the child’s birth, adoption or foster care placement.
- c. Family Illness Leave
 - i. An employee may take a Family Illness Leave to care for a seriously ill or injured spouse, parent or child.
 - ii. The illness or injury must be a “serious health condition” within the meaning of the FMLA, a term which is defined below.
 - iii. If the leave is for the care of a child, the child must either be under age 18 or be unable to care for himself or herself due to a mental or physical disability.
- d. Employee Illness Leave
 - i. An employee may take an Employee Illness Leave because of a serious health condition that makes the employee unable to perform his or her job.
- e. Qualifying Exigency Leave
 - i. An eligible employee is eligible for up to a total of 12 work weeks of unpaid leave during the normal 12-month period established by the City for FMLA leave for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation.

Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces. Qualifying exigencies include:

1. Issue arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
 2. Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
 3. Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
 4. Making or updating financial and legal arrangements to address a covered military member's absence;
 5. Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
 6. Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
 7. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
 8. Any other event that the employee and employer agree is a qualifying exigency.
- ii. FMLA leave may be taken intermittently whenever medically necessary to care for a covered service member with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must

make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

- iii. Under certain conditions as noted below, employees or employers may choose to "substitute" (run concurrently) accrued paid leave (such as sick, comp, personal day or vacation leave) to cover some or all of the FMLA leave.
 - 1. Upon the birth of a child to an eligible employee, or the placement of an adopted or foster child with an eligible employee, that employee is entitled to FMLA leave. The leave must be completed within one year of the birth or placement of the child. The leave shall be unpaid unless it qualifies under the sick leave policy or unless the employee elects to use accrued vacation leave, accrued comp time or their annual "personal holiday", for part or all of such leave.
 - 2. FMLA Leave which qualifies for sick leave shall be paid leave to the extent that the employee has accrued sick leave credits. When an employee has exhausted accrued sick leave, FMLA leave shall be unpaid leave, except that the employee may elect to use accrued vacation leave for part or all of the unpaid leave.

f. Military Caregiver Leave

- i. An employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member.
- ii. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- iii. A serious injury or illness is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating.
- iv. The "single 12-month period" for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a **combined** total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered service member.)

IV. Serious Health Condition

- a. A “serious health condition” is an illness, injury impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the essential functions of the employee’s job or prevents the qualified family member from participating in school or other daily activities.
- b. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity or more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

V. Notice and Scheduling of Leave and Related Employee Responsibilities

- a. Required Information
 - i. Employees who seek a Family and Medical Leave must provide sufficient information for the Human Resources Department to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, or the need for hospitalization or continuing treatment by a health care provider or circumstances supporting the need for a Qualifying Exigency Leave or a Military Caregiver Leave. Employees must also inform the Human Resources Department if the requested leave is for a reason for which a Family and Medical Leave was previously taken or certified. Failure to provide sufficient information may result in denial of leave.
 - ii. Employees will also be required to provide a certification and periodic recertification supporting the need for leave. Unless a longer period is specified, a medical certification or recertification must be completed and returned to the City within fifteen (15) days of the City’s request. Moreover, employees on leave may be contacted periodically for updates concerning their status and intent to return. Employees are expected to be fully responsive to such requests for updates.

b. Advance Notice of Foreseeable Leave

Except as otherwise provided below, employees must provide 30 days’ advance notice of the need to take a Family and Medical Leave with the need for the leave is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable.

c. Form of Notice of Foreseeable Leave

An employee requesting Family and Medical Leave shall submit a “Leave of Absence Application” to his or her department head. Upon notification of the leave request, the Human Resource Department will forward the “Certification of Health Care Provider” or the “Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave” to the employee. This form must be returned to the Human Resources Department within 15 calendar days.

- i. The certification shall be filed on a form provided by the Human Resources Department;
- ii. Recertification shall be filed on the same form by the employee anytime that the employee seeks and extension to his or her leave or every six months;
- iii. The information required on the “Leave of Absence Application” form is the only information that may be requested by the Department head to support the leave request.
- iv. The “Certification of Health Care Provider” form(s) may be executed by a person licensed by the State to practice medicine, osteopathy, podiatry, dentistry, clinical psychology, optometry, or chiropractic, or by a nurse practitioner or nurse midwife authorized by State law, or Christian Science practitioners appropriately listed.
- v. The “Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave” must be completed by a United States Department of Defense (DOD) Health Care Provider or a Health Care Provider who is either:
 1. a United States Department of Veteran’s Affairs (VA) health care provider;
 2. a DOD Tricare network authorized private health care provider; or,
 3. a DOD non-network Tricare authorized private health care provider.

d. Scheduling of Foreseeable Leaves

If an employee plans to take a Family Illness Leave, an Employee Illness Leave or Military Caregiver Leave because of planned medical treatment, the employee must make an effort to schedule the treatment to reduce the disruption to the City, subject to the health care provider’s approval. An employee should generally consult with his or her supervisor to explore alternatives to reduce disruption to the City.

e. Notice of Unforeseeable Leave

When a Family Illness Leave, an Employee Illness Leave, Military Caregiver Leave or Qualifying Exigency Leave is needed due to a reason that was not foreseeable, the employee should give the Human Resources Department verbal or written notice as soon as he or she reasonably can. As soon as practicable, the written notices set forth above in paragraphs V.C.(1) – (5), shall be completed by the employee requesting unforeseeable leave.

f. Effect of Insufficient Notice

An employee's failure to give adequate notice may delay, or may result in the denial of, the employee's right to take Family and Medical Leave.

VI. Confirmation of Leave

- a. The City will inform employees who request Family and Medical Leave whether they are eligible for a leave that is covered by the FMLA within five (5) business days, absent extenuating circumstances. If they are, the Human Resources Department will send a "Notice of Eligibility and Rights & Responsibilities" form to the employee.
- b. If they are not eligible and the leave is denied, the reason will be stated on the form. If the leave is approved, the Human Resources Department will forward a "Designation Notice" to the employee.

VII. Length of Leave and Restoration Rights

a. In General

- i. In general, expect for those employees taking Military Caregiver Leave, an employee will be entitled to a maximum of 12 weeks of Family and Medical Leave during any 12-month period. The 12-month period is a "rolling" period measured backward from the date an employee uses any leave under this policy. Each time an employee takes any Family and Medical Leave, the remaining leave entitlement will be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.
- ii. In the case of Military Caregiver Leave, an employee is entitled to a maximum of 26 weeks of leave in the 12-month period beginning on the first day that the employee takes this form of leave and ending 12 months later.

b. Nature of the Leave

- i. Unless otherwise approved, a Birth, Adoption and Child Care Leave must be taken at one time and must be taken before the end of the 12-month period beginning on the date of the child's birth or placement. The other Family and Medical Leaves may be taken through either a reduced working schedule or intermittently if such an arrangement is medically necessary, or if the City approves such an arrangement in its sole discretion.
- ii. If an employee is entitled to a Family Illness Leave, an Employee Illness Leave or a Military Caregiver Leave or if the employee is permitted to work on a reduced work schedule or intermittent basis, the City may transfer the employee temporarily to a position for which he or she is qualified and which

has equivalent pay and benefits if the alternative position would better accommodate the recurring leaves than the employee's regular position. Use of intermittent or reduced schedule leave is measured in increment of one hour.

iii. Qualifying Exigency Leave may also be taken on an intermittent basis.

c. Restoration Rights

i. In General

At the end of a Family and Medical Leave, an employee will generally have the right to return to his or her last position before the leave or to an equivalent position with equivalent benefits, pay, accumulated seniority, retirement, fringe benefits, service credits and other terms and conditions of employment. In returning from any of these leaves, the employee will not lose any benefit rights, such as vacation, to the extent that those benefit rights accrued before the leave period. However, an employee returning from Family and Medical Leave will not acquire greater rights to a position than any other employee in the event positions are eliminated during his or her leave.

ii. Extension of Leave

In the event that a Family and Medical Leave is extended beyond a level totaling 12 weeks of leave over 12 months (or 26 weeks in the case of Military Caregiver Leave), the leave will become "personal leave" and the City will consider the possibility of restoration but will not guarantee restoration. The determinations regarding whether to grant an extension and to grant restoration after an extension will be made in the City's sole discretion after considering factors such as the purpose of the leave extension, the employee's length of service, the employee's overall employment record, the employee's position, and the City's assessment of its needs. For details on the duration of and procedures associated with personal leave, see the "Leaves of Absence Without Pay" section of this manual.

iii. Certification Before Return

Before an employee may return from an Employee Illness Leave that has continued at least 90 calendar days, the employee's health care provider may be required to certify that the employee is able to resume his or her job. The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

VIII. Pay and Benefits

a. Pay

- i. Family and Medical Leaves shall be recorded on time sheets as it is taken. Family and Medical Leaves are not paid leaves. However, an employee may substitute a paid leave for which the employee is eligible for an otherwise unpaid leave. Such a substitution will be counted against the employee's use of leave. The leave will remain subject to all protections that would apply if the leave was taken on an unpaid basis. For example, if the Family and Medical Leave is paid leave from accrued vacation or sick leave, it shall be recorded as both on the time sheet and deducted from both. Family and Medical Leave will run concurrently with vacation or sick leave and time off for worker's compensation injuries. Employees who seek paid leave will need to meet the notice and qualification requirements under the paid leave policy.
- ii. If no other paid leave is available but an employee is eligible for accrued paid leave such as vacation pay or paid personal days, the employee will be required to use that accrued leave during a leave under this policy until that leave is exhausted.

b. Maintenance of Health Benefits

- i. During a Family and Medical Leave, the City will continue the employee's health insurance coverage, provided that the employee pays for the regular employee share of such coverage on a timely basis as if he or she had remained actively employed. During any paid leave, the employee share of the premiums will be deducted from the employee's pay. During the unpaid portion of a Family and Medical Leave, the employee will be required to pay the employee's share by delivering the payment so that it is received by the City no later than the established date as determined by the payroll department.
- ii. If the employee fails to return from the leave, the City may be entitled to recover from the employee the portions of the health insurance premiums that were paid by the City with respect to the unpaid leave. The City will be entitled to recover these amounts unless the employee's failure to return was due to a serious health condition (within the meaning of the FMLA) or if there are other circumstances beyond the employee's control. If the employee states that he or she is unable to return from the leave because of a serious health condition, the City may require the employee to provide a medical certification.

IX. Medical Records

Documents relating to medical certifications, recertifications of employees or employees' family members will be maintained separately and treated as confidential medical records, except that in some legally recognized circumstances, the records (or information in them)

may be disclosed to supervisors or Department heads, first aid and safety personnel, or government officials.

X. FMLA Violations and Enforcement

a. Unlawful Actions by Employers

The FMLA makes it unlawful for any employer to:

- i. Interfere with, restrain, or deny the exercise of any right provided under the FMLA; or,
- ii. Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or related to the FMLA.

b. Enforcement

- i. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.
- ii. The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: Resolution #4832 - September 15, 2003

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 70-1

SUBJECT: DRIVER'S LICENSES

I. PURPOSE:

To establish a policy for the requirement of a valid Montana State Driver's License by employees whose jobs routinely involve driving City vehicles.

II. STATEMENT OF POLICY:

- a. Any employee whose work requires that he/she drive City vehicles must hold a valid Montana State Driver's License.
- b. All new employees who will be assigned work entailing the operating of a City vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.
- c. Periodic checks of employees' driver's licenses through visual and formal Department of Motor Vehicles review checks shall be made by department heads or division supervisors. Any employee who does not hold a valid driver's license will not be allowed to operate a City vehicle until such time as he/she obtains a valid license.
- d. Any employee performing work which requires the operation of a City vehicle must notify his/her immediate supervisor in those cases where his/her license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Drivers' Improvement Bureau. If an employee fails to report such an instance, he/she is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report such revocation or suspension to his/her supervisor and continues to operate a City vehicle shall be subject to possible termination.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 70-2

SUBJECT: EMERGENCY CONDITIONS

I. PURPOSE:

To establish a policy for reporting to work in the event of emergency conditions.

II. STATEMENT OF POLICY:

1. City offices and activities shall remain open and in operation during established working hours. All employees should make every attempt to report for work on a timely basis. If employees are unable to report to work, the following criteria shall apply:
 - i. The employee is responsible for contacting his/her supervisor or department head by telephone to indicate anticipated absence from work or late arrival to work and the reason.
 - ii. If an employee is unable to report to work, the absence may be charged as vacation or personal leave, or the employee may elect to take this time off without pay.
2. Such leave cannot be used to offset absence from work for pay purposes for other than sickness.
3. The City Manager shall be authorized to close City offices to protect the safety and welfare of City employees. In this event non-exempt employees will be required to take sick leave or vacation time in order to receive pay for time missed due to the closure.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 70-3

SUBJECT: INSURANCE CLAIMS

I. PURPOSE:

To establish procedures for the handling of insurance claims against the City.

II. STATEMENT OF POLICY:

1. No employee will discuss with anyone any matters involving claims against the City.
2. All questions pertaining to claims shall be referred to the Human Resources Director &/or designee.
3. Claims for damages presented to the City shall be referred to the Human Resources Director &/or designee for filing.

III. RESPONSIBILITIES:

1. All City employees must notify their supervisor in the case of incidents involving potential claims immediately. The supervisor must report, orally and in writing, to the Human Resources Director &/or designee within one (1) day. Items reported should include any property damage occurring during work for the City, no matter how small.
2. The Human Resources Director, who is the acting risk manager &/or designee is responsible for receiving all damage claims against the City and referring them to the City Manager and filing them appropriately with the City's insurance carrier.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: May 11, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 70-4

SUBJECT: MINIMUM QUALIFICATION FOR THE OPERATION OF CITY-OWNED MOTOR VEHICLES AND PRIVATELY-OWNED VEHICLES WHILE CONDUCTING OFFICIAL BUSINESS

I. PURPOSE:

To ensure an acceptable standard of proficiency and safety is met by each employee who operates City-owned motor vehicles.

II. STATEMENT OF POLICY:

1. Employees are required to use City vehicles instead of their own for official City business whenever possible.
2. Personal vehicles may be used for official City business with the prior approval of the employee's department head. Employees using their personal vehicles will be reimbursed at the prevailing rate established by the City Council after submission of the appropriate form to the Finance Department. No City employee shall be required to provide his/her own vehicle for conducting City business.
3. All employees whose duties require the operation of a City-owned motor vehicle or who operate a privately-owned vehicle while conducting official business as a part of their employment with the City, must possess a valid State Driver's License and a safe driving record.
4. Prior to acceptance for employment with the City in a position that would necessitate the operation of a motor vehicle in the course of performing the assigned duties of that position, an employee's motor vehicle operators record may be requested from the Driver Improvement Bureau by the Human Resources Department. If a Driver Improvement Bureau review indicates three or more moving violations within three years of the date of review, the employee may be denied authorization to operate a vehicle while representing the City. If the employment is dependent upon the ability to operate a vehicle, the prospective employee may be denied employment.
 - a. Employees operating City-owned motor vehicles or privately-owned vehicles while conducting official business shall observe all traffic laws, rules and regulations, and the dictates of common sense and good judgment.
 - b. If during the course of employment an employee exhibits a disregard for acceptable safe driving procedures, the responsible department head may deny further authorization to operate a vehicle while representing the City.

5. Any employee who operates a privately-owned vehicle while conducting official business for the City must maintain automobile liability insurance with minimum insurance coverage of not less than \$25,000/\$50,000/\$10,000 in accordance with the Motor Vehicle Safety Responsibility Act (§§ 61-6-101 et seq., M.C.A.). Employees who do not maintain minimum liability coverage will not operate privately-owned vehicles in an official capacity.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: May 11, 2000

SECTION 70-5

SUBJECT: SAFETY AND ACCIDENT PREVENTION

I. PURPOSE:

To establish guidelines and lines of responsibility for maintaining a safe and healthy work environment.

II. STATEMENT OF POLICY:

- a. The City of Kalispell has a safety program and complies with the Montana Safety Culture Act. Relevant safety regulations are addressed in the City of Kalispell's Safety and Health Manual which is by delegating safety responsibilities, establishing procedures, providing training, inspecting workplaces, and providing/requiring the use of safety equipment, etc. The Safety and Health Manual is the main reference for safety and health rules and regulations for the city. The Safety and Health Manual may be changed as needed to ensure compliance with laws, rules and regulations or address recognized safety concerns. The goal; to provide safe working conditions for all employees.
- b. If an employee notices a potential hazard, they should repair the hazard if they are capable and qualified or they should promptly refer the problem to the supervisor, City Manager, or the Human Resources Director and/or their designee.
- c. Employees must use safe driving habits and wear seat belts while traveling in city owned vehicles/equipment or on behalf of the City of Kalispell. Employees should not operate or use equipment if they are not authorized or do not have the appropriate licensure.
- d. If an employee sustains an injury while on the job, they should notify their supervisor or the and/or their designee as soon as possible after the injury occurred and prior to leaving work for the day, if possible. An Injury/Illness Report must be completed and the incident must be documented in writing by the injured employee and/or witnesses as soon as possible following the injury.
- e. It is the responsibility of all employees to cooperate in making the safety program work.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 70-6

SUBJECT: EARLY RETURN-TO-WORK (ERTW) PROGRAM

I. PURPOSE:

To establish a policy and procedure whereby an employee who is injured on-the-job, may return to work as soon as medically appropriate to a temporary position with modified work duties.

II. STATEMENT OF POLICY:

- a. The City strives to promote a successful recovery from any work-related injury of illness and has set up these guidelines for supervisory personnel to follow when a position may be temporarily modified to accommodate the injured employee's physical limitations, thereby allowing him or her to return to work at the earliest, medically appropriate date.
- b. The Human Resources Director &/or designee, the injured employee, and the employee's supervisor working in conjunction with the employee's physician shall, if medically appropriate, work to implement a program that will meet the needs of the injured employee and the City that will permit the employee's return to a transitional employment position. At no time will an employee be assigned to perform work that may be could pose a safety and/or health risk to themselves or others.
- c. **Transitional employment** includes only short-term duties having some or all of the following characteristics:
 - i. Limited physical ability requirements;
 - ii. Can be taught to the injured employee quickly;
 - iii. May be subject to a flexible work schedule, including shortened workdays;
 - iv. Will minimize exposure of the worker to further injury and will not slow down the worker's recovery time.
 - v. The Human Resources Director &/or designee shall communicate with the injured employee's physician to obtain a return-to-work recommendation detailing physical limitations of the employee and the physician's estimated return to work date for both full duties and modified duties. Upon receipt of the physician's recommendation, the Human Resources Director &/or designee shall work with the employee's supervisor to develop a transitional employment program, if medically feasible. This may include reducing the number of hours worked in a shift or redesigning duties to create safe, meaningful, productive work for the employee.
 - vi. Steps in Transitional Employment shall be as follows:
 1. The job duties of the transitional position shall be communicated to the employee. The employee shall have the opportunity to suggest adjustments to accommodate the employee's needs and restrictions.

Job duties shall be reviewed and modified when appropriate, as the employee's condition improves.

2. Once the job description is approved, the offer of transitional employment shall be extended to the injured employee.
 - a. Transitional employment is temporary and must have a designated start date and end date set at the time of the employee's return to work.
 - b. The end date may be extended if the employee requires additional time to recover, or the employee may be assigned to other transitional duties with a specific start and end date.
 - c. Transitional employment assignments will normally not exceed a term of forty-five (45) days. In extraordinary cases, the temporary assignment may be extended for an additional forty-five (45) days. In no event will the assignment be extended beyond ninety (90) days.
 - d. At any time it appears the employee is not showing sufficient improvement in their condition, they are to be placed back on sick leave to allow them additional recovery time.
 3. The employee must notify the Worker's Compensation Claims Adjuster of the offer so any adjustment to benefits may be made. This adjustment occurs whether the employee accepts the offer of employment or not.
 4. The City will notify the Claims Adjuster when the employee accepts or refuses the offer for the purpose of calculating benefits adjustments.
 5. **If the injured employee refuses an offer of transitional employment, it is possible that the employee may lose benefits paid by Worker's Compensation** Transitional employment does not include performance of normal job duties which the injured employee may be capable of performing during his recovery. For example, attending mandatory training and educational programs is considered part of the employee's regular duties for which the employee will receive normal compensation. These will not be deemed to be transitional employment.
- d. Department heads and Supervisors are key players in promoting safety at work, encouraging workers to return to their jobs, keeping costs associated with accidents and work-related illnesses low, and managing the work so productivity is not lost while the employee is temporarily disabled.

EFFECTIVE: Immediately

DATE: September 15, 2003

Resolution #4832

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 80-1

SUBJECT: TRAVEL EXPENSES WHILE ON CITY BUSINESS

I. PURPOSE:

To establish policy guidelines on City reimbursement for expenses while on City business.

II. STATEMENT OF POLICY:

It is the policy of the City to reimburse employees for reasonable and necessary expenditures made by employees while on official City business.

III. APPROVAL FOR TRAVEL:

Employees traveling on City business must have approval by the department head and City Manager prior to leaving.

IV. PAYMENT FOR TRAVEL EXPENSES:

- a. Claims for reimbursement for travel expenses will be recorded on Travel Expense Vouchers available in the Finance Office. Expenses incurred by the employee will be reimbursed upon approval of the Travel Expense Voucher at the time council approves all claims.
- b. As a minimum, lodging and miscellaneous expense receipts are required to be attached to the voucher before reimbursement will be paid. Receipts for meals are not required.

V. REIMBURSABLE EXPENSES:

- a. One-day travel expenses
 - i. Travel and return the same day: Mileage (at I.R.S. allowed rate) if personal vehicle is used. Expense for lunch and dinner if employee is away from official station beyond regular working shift.
 - ii. Use of personal vehicle because of personal preference (i.e., city vehicle otherwise available): Reimbursement will not be made for mileage, but a City gas card may be used for fuel.
- b. Multiple-day travel expenses
 - i. Mileage (at I.R.S. allowed rate), meals, actual lodging costs subject to the City Manager's approval (for employee only), air fare, tips and taxi or other

transportation. Any miscellaneous expense related to work or business travel.

- ii. Use of personal vehicle because of personal preference (i.e., city vehicle available): Reimbursement will not be made for mileage, but a City gas card may be used for fuel.

c. Registration or tuition fees

d. Long distance phone calls related to City business while in travel status (limited to one reasonable length call home when away overnight).

e. Hotel accommodations shall be reasonable and shall be reimbursed at actual and necessary costs. Accommodations should be near the location of the conference or business meeting. According to state law, Section 2-18-501(5), M.C.A., when other than commercial, non-receiptable lodging facilities are utilized, the amount of \$12 per day will be authorized. No receipt will be required.

VI. GUIDELINES FOR RATES ALLOWED BY THE CITY:

a. Meals

i. In-State and Out-of State Travel

1. A per diem rate not to exceed the amount allowed pursuant to Section 2-18-501(1), M.C.A.

2. If meals are included in tuition or registration fees, reimbursement will be reduced according meal allowance schedule set forth in Section 2-18-501(1), M.C.A. Claims for meals when employees are in travel status for fractions of days will be made in accordance with Section 2-18-501(1), M.C.A. for individual meals.

VII. NON-ALLOWABLE EXPENSES:

a. Laundry, cleaning, or valet services (except on trips of over one week duration).

b. Tobacco.

c. Alcoholic beverages.

d. Entertainment.

e. Personal telephone calls to home (limited to one reasonable length call home when away overnight).

f. First class travel accommodations when economy or coach class are available.

g. Meals and lodging in lieu of other meals and/or lodging the expense of which is included in the registration fee.

h. Fines, forfeitures or penalties.

i. Rental vehicles except as pre-approved by the City Manager.

j. Expenses of a spouse or other non-employee.

k. Loss or damage to personal property.

1. Barber, beauty parlor, shoe shine or toiletries.
- m. Personal postage.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: May 12, 2000

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 80-2

SUBJECT: SPECIAL LICENSES AND MEMBERSHIP FEES

I. PURPOSE:

To establish guidelines for the request and approval of special licenses and membership fees.

II. STATEMENT OF POLICY:

- a. The City will pay an annual lump sum payment equal to the current annual dues on fees to each employee who is required by ordinance, or state or federal law to be a member of a professional organization or who must maintain current a particular certification or license as a condition of employment. Payment will be made upon approval by the employee's department head.
- b. Employees who belong to professional organizations that promote individual professional growth, competence and effectiveness in functioning as City employees will be allowed time off with pay to attend local, state and national meetings subject to approval by the City Manager and budgetary limitations. Collective bargaining units that negotiate for City employees are excluded from coverage under this policy.
- c. Membership in outside organizations shall be in the name of the City, if possible.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED:

SECTION 80-3

SUBJECT: LAWSUITS AGAINST THE CITY

I. STATEMENT OF POLICY:

- a. The Mayor, City Manager, or Finance Director are the only authorized employees to accept any legal process served against the City. If an employee is approached by a process server, the employee should direct the server to the Finance Director without signing anything.
- b. An employee should not discuss any aspect of a situation that is subject to a lawsuit or hearing without first consulting with the City Attorney or Adjutant City Attorney and the affected employee's supervisor.

EFFECTIVE: Immediately DATE: May 3, 1994

LAST REVISED: May 12, 2000

SECTION 80-4

SUBJECT: TRAINING PROGRAMS, INCLUDING SEMINARS OR CONVENTIONS

I. PURPOSE:

To promote and facilitate training and career education which meets the dynamic needs of the City.

II. DEFINITIONS:

As addressed by this policy, training is defined as any work- related program, seminar, conference, convention, course or workshop attended by an employee whose tuition and expenses are funded in whole or in part by the City or while the employee is in a paid status with the City.

III. STATEMENT OF POLICY:

- a. It is the policy of the City to encourage and coordinate training opportunities for employees and supervisors in order that services rendered to the City will be more efficient and effective.
- b. Employees are encouraged to continue their formal education through participation in off-duty/non-working hours educational programs.
- c. Reimbursement for educational expenses incurred by such participation may be granted for job-related courses with prior approval of the City Manager, provided funds have been budgeted for such training.
 - i. Any reimbursement shall only be after successful completion of the course/program. Successful completion shall be defined as receipt of a certificate of satisfactory completion or a grade of C (2.0 grade point) or better in the case of academically rated courses (or attainment of pass in a pass/fail grading system.) Tuition reimbursement is for the course only; no reimbursement will be allowed for books, lab fees, travel expenses or material costs. Approval for tuition reimbursement shall only be allowed for courses offered by accredited colleges, universities or vocational training institutes.
 - ii. Request for reimbursement must be made within 30 days following the completion of the course of study. Training reimbursement is generally available to only those employees who have successfully completed the employee's designated probation or trial period.
 - iii. Consideration of employee requests for tuition reimbursement is dependent upon budgetary constraints and the recommendation of that employee's Department Head. Time spent in attendance at these courses shall be considered the employee's personal time and is not counted as time worked.

- d. It is the policy of the City to maximize comprehension, retention and transference of training provided by the City.
- e. This policy is subject to and limited by the conditions of an affected employee's labor contract.

IV. PROCEDURES:

- a. Attendance at training programs will be approved at the Department Head level, except as follows:
- b. Attendance at a training program involving out-of-state travel by an employee requires approval by the City Manager prior to registration.
- c. Attendance at any program or course work in excess of 1 shift and/or \$200 (in registration, travel, meals and lodging cost) requires approval by the City Manager prior to registration.
- d. All outside training and conference attendance shall be processed through the Training Attendance Request Form and processed as instructed thereon. (sample attached)
- e. Any dispute regarding eligibility or the level of reimbursement may be appealed to the Human Resources Director &/or designee for resolution.
- f. City-sponsored and required training shall generally be arranged during regularly scheduled work hours. A Department Head or their designee may change the standard work hours to accommodate or require attendance at such training activities. Such required training shall be recorded as time worked within the meaning of this policy.
- g. Employees who acquire training on their own time and expense are encouraged to notify the Human Resources Director &/or designee so the information can be noted in the employee's personnel file.
- h. Approval for State Training Academy course work for uniformed police officers and firefighters shall be at the discretion of the appropriate department head. Records of such training shall be maintained in the employee's personnel file.
- i. The Human Resources Director &/or designee shall maintain an employee training history, and shall periodically audit training attendance and policy compliance.

EFFECTIVE: Immediately DATE: May 3, 1994

REVISED: April 27, 1995

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 80-5

SUBJECT: USE OF CITY COMPUTERS AND INFORMATION NETWORK

I. STATEMENT OF POLICY:

With the increased use of technology affecting the daily operation of city offices, there is also an increased need to protect the integrity and security of our data and network infrastructure. The purpose of this policy is to establish general guidelines for the appropriate use of the city's information system network (ISN) and standards of conduct for its users.

II. Roles And Responsibilities

- a. Each department head is responsible for ensuring an adequate level of security for all data within their department. When using the City's information system resources, users are responsible for:
 - i. Being knowledgeable of and honoring acceptable use policies of networks or systems accessed through the City's ISN or the Internet;
 - ii. Honoring existing federal, state, and local telecommunications and networking laws, regulations or policies;
 - iii. Not using the City's ISN to obtain, store, or distribute confidential material, such as confidential court records, personnel records, or mailing lists, in a manner not approved by policy or state law;
 - iv. Reporting to the appropriate authority the violation of the network acceptable use policy;
 - v. Honoring copyright laws and City policy regarding protected commercial software or intellectual property;
 - vi. Minimizing unnecessary network traffic that might interfere with the ability of others to make effective use of this shared resource.
 - vii. Protecting the integrity and security of the City's Information System infrastructure by:
 1. not attempting to circumvent or defeat security systems;
 2. not permitting any unauthorized individual to access the City's ISN;
 3. using passwords and changing passwords on a regular basis on all systems that require their use;
 4. protecting your password to prevent its discovery and use by others;
 5. refraining from using another user's system or attempting to access unauthorized data or resources;
 6. refraining from viewing, damaging, modifying, or deleting other users' files or communications without appropriate authorization or permission; and,
 7. making every effort to prevent the introduction of viruses into the City's ISN by actions such as using disks created on other systems or

down-loading files onto systems not protected by appropriate virus protection software.

III. Applicability

- a. This Policy is applicable to departments, staff and all others with the City of Kalispell, including outsourced third-parties (such as contractors, or other service providers), who have access to, or use or manage information assets subject to the policy and standard provisions of §2-17-534 MCA. This Policy shall be communicated to staff and others who have access to or manage information, and information systems and assets.
- b. This policy applies to personal computers, other computing devices, and accessory equipment that store electronic data, information, and software programs.

IV. Scope

- a. This Policy encompasses information and information systems for which agencies have administrative responsibility, including information and systems managed or hosted by third-parties on agencies' behalf.
- b. This Policy may conflict with other information system policies currently in effect. Where conflicts exist, the more restrictive policy governs. The development of future policies or standards will specifically identify and retire any superseded portions of current policies or standards.

V. Requirements

- a. Each user of the City of Kalispell's computing and information resources should realize the fundamental importance of information resources and is responsible for the safe keeping of these resources.
- b. Users and system administrators must guard against abuses that disrupt or threaten the viability of all systems, including those on the City or State network and those on networks to which State systems are connected.
- c. Each user is responsible for having knowledge of the City of Kalispell's policies concerning security and care for their computer. It is the responsibility of the City of Kalispell to educate its management and staff about these policies; to educate its employees about the dangers of computer abuse and its threat to the operation of the City of Kalispell's computer network; and educate its management and staff about proper ethical behavior, acceptable computing practices, and copyright and licensing issues.
- d. Each user of the City of Kalispell's computing and information resources must act responsibly. Each user is responsible for the integrity of these resources.

- e. All users of City-owned or leased computing systems must be knowledgeable of and adhere to department/agency policies, respecting the rights of other users by minimizing unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource, respect the integrity of the physical facilities and controls, and obey all federal, state, county, and local laws and ordinances.
- f. All employees must abide by these policies, relevant laws and contractual obligations, and appropriate ethical standards.
- g. City of Kalispell computing facilities/equipment and UserIDs are to be used for the job-related activities for which they are assigned. Computing resources are not to be used for private or commercial purposes, non-City-related activities (including games or software that is not required for an employee's job responsibilities), or non-City/State standard software. Exceptions can be granted by ITSD for the use of software for which a standard exists.
 - i. Acceptable Uses of the City's ISN include but are not limited to:
 1. The conduct of appropriate government business and the delivery of government services;
 2. The support of training, administration, research and grant procurement, and grant administration;
 3. The increased participation of citizens in government affairs; and,
 4. The communication and exchange of professional information.
 - ii. Prohibited and/or misuse of City's ISN include but are not limited to:
 1. Using computer resources to create, access, download, or disperse derogatory, racially offensive, sexually offensive, harassing, threatening, or discriminatory materials.
 2. Down-loading, installing, or running security programs or utilities which reveal weaknesses in the security of the state's computer resources unless a job specifically requires it.
 3. Use of computers and user IDs for which there is no authorization, or use of user IDs for purpose(s) outside of those for which they have been issued.
 4. Attempting to modify, install, or remove computer equipment, software, or peripherals without proper authorization. This includes installing any non-work related software on State-owned equipment. Accessing computers, computer software, computer data or information, or networks without proper authorization, regardless of whether the computer, software, data, information, or network in question is owned by the State.
 5. Circumventing or attempting to circumvent normal resource limits,

- logon procedures, and security regulations.
6. The use of computing facilities, User IDs, or computer data for purposes other than those for which they were intended or authorized.
 7. Sending fraudulent email, breaking into another user's email box, or unauthorized personnel reading someone else's email without his or her permission.
 8. Sending any fraudulent electronic transmission, including but not limited to fraudulent requests for confidential information, fraudulent submission of electronic purchase requisitions or journal vouchers, or fraudulent electronic authorization of purchase requisitions or journal vouchers.
 9. Violating any software license agreement or copyright, including copying or redistributing copyrighted computer software, data, or reports without proper, recorded authorization.
 10. Taking advantage of another user's naiveté or negligence to gain access to any User ID, data, software, or file that is not your own and for which you have not received explicit authorization to access.
 11. Physically interfering with other users' access to the State's computing facilities.
 12. Encroaching on or disrupting others' use of the State's shared network resources by creating unnecessary network traffic (for example, playing games or sending excessive messages); wasting computer time, connect time, disk space, or other resources; modifying system facilities, operating systems, or disk partitions without authorization; attempting to crash or tie up a State computer; damaging or vandalizing State computing facilities, equipment, software, or computer files).
 13. Disclosing or removing proprietary information, software, printed output or magnetic media without the explicit permission of the owner.
 14. Reading other users' data, information, files, or programs on a display screen, as printed output, or via electronic means, without the owner's explicit permission.
 15. Knowingly transferring or allowing to be transferred to, from or within the agency, textual or graphical material commonly considered to be child pornography or obscene as defined in 45-8-201(2), MCA.
 16. Using computer resources to access and communicate via social networking type sites without the knowledge and permission from the Department Head, Human Resources and the Information Technology Department. Examples of social networking sites are Facebook, Twitter, MySpace, Linedin.

VI. Privacy and Ownership

- a. Employees should not have expectations of privacy for Internet use or e-mail. Administrators or management personnel can monitor Internet usage for planning and managing network resources, performance, troubleshooting purposes, or if abuses are suspected. The City will block or limit access to websites whose content and services degrade available network resources. E-mail content should be considered a public record and subject to the same rules as printed material. All the City's ISN components purchased and supported by the City and the data contained on those systems are considered to be the property of the City of Kalispell.

VII. Enforcement

- a. Immediately upon implementation of this policy, Department supervisors will be responsible to provide a copy of this policy to, and collect signed consent forms from all employees who have access to the City's Information Systems Network.
- b. An employee who violates any provision of this policy shall be subject to disciplinary action up to and including discharge.
- c. In the event that an individual who violates this policy is not appropriately disciplined for violations of this policy, the City Manager reserves the right to terminate the responsible party's access to the City ISN.

VIII. Virus Introduction—Loss of Privileges and Disciplinary Action

- a. When an e-mail or Internet-carried virus is activated on the City's Information System Network, the City will investigate the incident to determine whether the user should be held responsible. In the event that the investigation demonstrates fault by the user, the investigator shall communicate that finding to the City Manager, Department Head and Human Resources. If the City Manager concludes that the user is responsible, that user shall lose Internet access or e-mail privileges as follows:
 - i. On the first occasion, the user's Internet access or e-mail privileges will be removed (with incoming e-mail be redirected to another user designated by the Department head) for a period of 15 days.
 - ii. On the second occasion, the user's Internet access or e-mail privileges will be removed (with incoming e-mail redirected to another user designated by the Department head) for a period of 45 days.
 - iii. On the third occasion, the user's Internet access or e-mail privileges will be removed permanently.
- b. When an e-mail or Internet carried virus is activated on the City's computer system and, after investigation, it is determined that the employee was at fault and loss of Internet or e-mail access results, the Department head may submit the matter for consideration of further disciplinary action.

- c. In the event that an employee's Internet access or e-mail use is removed permanently under this section, and this action seriously impacts the employee's ability to perform his/her assigned tasks, the employee may be reassigned or terminated by the department head in accordance with the city's policy on discipline, Section 40-9.

IX. Consent Form

- a. All City of Kalispell employees or contractors with the City who have access to the Internet, email, or other online services, will be required to either sign a consent form indicating that they have knowledge of and will comply with the city's policies and procedures in regards to the use of computing resources or;
- b. In lieu of the consent form, city employees by receiving and signing receipt of the City's Personnel Policy Handbook will also be considered to have given consent to comply with this policy.
- c. Sample Consent Form

I _____ have read the State of Montana's computer use policies and agree to comply with all terms and conditions. I agree that all network activity conducted while doing State business and being conducted with State resources is the property of the State of Montana.

I understand that the State reserves the right to monitor and log all network activity including email and Internet use, with or without notice, and therefore I should have no expectations of privacy in the use of these resources.

Signed _____ Date _____

X. Reporting And Disciplinary Action

- a. Users will cooperate with system administrator requests for information about computing activities; follow agency procedures and guidelines in handling diskettes and external files in order to maintain a secure, virus-free computing environment; follow agency procedures and guidelines for backing up data and making sure that critical data is saved to an appropriate location.
- b. Users will report unacceptable use and other security violations to their immediate supervisor or department head, or system administrator.
- c. Misuse of the state's computer resources may result in an agency taking disciplinary action appropriate to the misuse, up to and including termination.

EFFECTIVE: Immediately DATE: September 15, 2003

Resolution #4832

LAST REVISED: Resolution 5468 - January 3, 2011

SECTION 80-6

SUBJECT: BREAST FEEDING IN THE WORKPLACE

1. PURPOSE:

To provide for women returning from maternity leave who wish to continue breastfeeding or expression of milk for their children.

2. STATEMENT OF POLICY:

Women returning from maternity leave who wish to continue breastfeeding or separate expression of milk for their child(ren) will be provided a private space (other than a toilet stall) with suitable lighting and electricity if necessary for pumping apparatus. The selection of the space will be made on a case-by-case basis in consultation with the employee. Standard break times will be primarily utilized with additional unpaid break time provided as mutually agreed upon. Additionally, the City will make every effort to provide suitable facilities for milk storage during the employee's daily work period. All requirements listed in MCA 39-2-215, 39-2-216, 39-2-217, whether or not specifically listed here, will be complied with.

NEW POLICY - EFFECTIVE: Resolution 5468 - January 3, 2011

SECTION 80-8

SUBJECT: PRIVATE USE OF PUBLIC FACILITIES AND EXPECTATIONS OF PRIVACY BY CITY EMPLOYEES

I PURPOSE:

To reduce liabilities and establish a policy for the private use of City of Kalispell Property and the expectations of privacy of city employees. Employees are to understand that the City of Kalispell is a public entity and to that end there is to be no expectations of privacy.

II STATEMENT OF POLICY:

- a. The use of City of Kalispell property or any of its facilities or equipment for personal and/or private use is not allowed without the consent of the director of that department and the City Manager.
- b. The City of Kalispell reserves the right to search the contents of City-owned vehicles, structures, equipment, and furniture of any kind, including offices, desks, lockers,

files and file cabinets, at any time and for any reason that is on City property. All City employees are therefore strongly encouraged to refrain from storing on or in City-owned property any personal article (including personal correspondence) they wish to protect from inspection by City officials. By accepting (continued) employment, each employee of the City is deemed to have consented to unannounced searches of his/her work area upon request.

NEW POLICY - EFFECTIVE: Resolution 5468 - January 3, 2011

SECTION 80-9

SUBJECT: PROCUREMENT POLICY

I PURPOSE:

The City of Kalispell acquires goods and services in a manner that clearly complies with state law and all applicable ordinances, rules and policies. The City favors competitive bidding to the extent practical, and bidding shall be done in an open competitive manner that is accessible to interested Vendors

II SCOPE:

The purchasing system shall operate through the City Purchasing Department under the direction and supervision of the City Clerk. All purchases that fall under the guidelines of this manual must be approved by City Purchasing and all contracts are required to be on file in the City Clerk's office.

III GENERAL RULES AND PROCEDURES:

- a. City Purchasing establishes rules and procedures to enforce City codes and to favor competitive bidding. . . City Departments may have additional procedures to monitor and control purchase requests and Department compliance. To ensure compliance with purchasing rules, those making purchases must be familiar with purchasing requirements and procedures. Refer to the City Clerk's office for the comprehensive policy and procedure.
- b. Departments shall ensure that those employees who are authorized to purchase for the Department are familiar with procurement policies and procedures.
- c. Piggybacking on other public agency contracts can achieve efficiency, easier access, and greater volume discounts. City Purchasing encourages piggyback opportunities. The City Manager or designee has the authority to sign Interlocal Agreements to allow such shared use.

- d. To ensure proper disposal of all City property, City Purchasing manages the City's surplus property program. All purchases that include a surplus or trade-in action require prior approval by City Purchasing.
- e. The City shall follow the State's Prevailing Wage requirements. For procurements that include service work, Prevailing Wages may apply. City Purchasing shall enforce Prevailing Wage requirements on Blanket Contracts or Purchase Orders issued by City Purchasing.
- f. City Departments purchase directly without City Purchasing:
- g. Emergency Purchases: The affected City Department determines what must be purchased to respond to an emergency, and who will make the purchase during the emergency.
- h. Goods or Services less than \$5,000: The Department may buy goods or services less than
- i. \$5,000 (each purchase) with a Purchase Order.

IV ***NOTE:** Purchases may not be broken into multiple projects or purchases to avoid compliance with State statutes and City policies.

NEW POLICY - EFFECTIVE: Resolution 5468 - January 3, 2011