



CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers

Tuesday, January 2, 2024 @ 7:30 PM

The public is invited to attend these meetings in person

Attend by phone: 1-844-992-4726

City Council - Meeting Access Code: 2493 513 2019

Personnel and Finance Committee at 7:00 PM - Meeting Access Code: 2484 818 2091

Meetings are broadcast on CTC ch 8, Charter ch 181, YouTube, AppleTV, Roku, and Amazon FireTV

1. **Call To Order**

2. **Roll Call**

___K. Terry ___T. Stenglein ___G. Johnson ___J. Czczok ___M. O'Day ___K.
Stunek ___K. Bevans ___Mayor Badeaux

3. **Pledge of Allegiance**

4. **Approval Of Agenda - Voice Vote**

5. **Consent Calendar**

NOTICE TO PUBLIC - all matters listed are considered routine by the Council and will all be enacted by one (1) motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion to be ADOPTED BY ROLL CALL

A. **Approval of Bills**

B. **Approval of Minutes**

C. **Department Activity Reports**

D. **Adopt Resolution Designating Financial Institutions as Depositories for 2024**

E. **Annual Authorization to Perform Electronic Transfers**

F. **Designate the Brainerd Dispatch as the Official Newspaper for Calendar Year 2024 pursuant to the City Charter and Authorize Signatures on Contract with Dispatch**

G. **Adopt Resolution Approving Signature Authorization for 2024 Capital Projects for the Brainerd Lakes Regional Airport**

- H. **Approve Hiring of 2023-2024 Warming House Attendant Temporary Employees**
- I. **Approve New Tobacco License Application for Limos Etc. DBA Risky Business Novelties and Videos, 3261 Washington Street- Contingent upon Police and Fire Approvals**
- 6. **State of the City Address**
- 7. **Council Committee Reports**
 - A. **Personnel & Finance Committee**
 - 1. Consider Approval of the Revised Employee Policy Manual
 - 2. Discuss BPU Commission's Recommendation for a Work Group Formation
 - 3. Ratify the Hiring of Recreation Specialist Haley Blank
 - 4. Consider Approval of Classification Points as Recommended by Flaherty & Hood.
 - 5. Approval of Earned Sick and Safe Time Policy.
 - 6. Accept with Regret the Retirement of Public Utilities Director Todd Wicklund
 - 7. Authorize Signatures on League of Minnesota Cities Insurance Trust (LMCIT) Liability Coverage Waiver Form
 - 8. Consider Request to Transfer Water Accessibility Charges (WAC) Cash Balance to BPU Department
- 8. **Unfinished Business**
 - A. **Call for Applicants**
 - Mayor Recommended: (terms to expire on 12/31 of said year)**
 - Charter Commission – 2 terms (Expire 2026) 2 terms (Expire 2025)
 - HRA 1 term (Expire 2029)
 - Library Board- 1 term (Expire 2025) 2 terms (Expire 2030)
 - Parks & Rec- 1 term (Expire 2029)
 - Public Utilities- 1 term (Expire 2026) 1 term (Expire 2029)
 - TAC- 3 terms (Expire 2027)
 - Mayor Recommended: (terms to expire on 9/7 of said year)**
 - EDA- 1 term (Expire 2026)
 - Council President Recommended: (terms expire on 12/31 of said year)**
 - Parking Commission-- 1 term (Expire 2026) 1 term (Expire 2028)
 - Planning- 2 terms (Expire 2027)

- B. **Final Reading- Proposed Ordinance 1563- Amending Salaries for Elected and Appointed Officials**
- 9. **New Business**
 - A. **Consider Conditional Use Permit to Operate an Auto Repair Service at 100 Washington St.**
 - B. **Consider Interim Use Permit to Operate a Short-Term Rental at 524 N 8th St.**
 - C. **Consider Interim Use Permit to Operate a Short-Term Rental at 701 SW 4th St**
- 10. **Public Forum**

Time allocated for citizens to bring matters not on the agenda to the attention of the Council -
Time limits may be imposed
- 11. **Staff Reports**

(Verbal: Any Updates since Packet)
- 12. **Mayor's Report**
- 13. **Council Member Reports**
- 14. **Adjourn**
 - A. **Adjourn to Special Meeting to Select City Administrator Candidates January 16th, 2024 at 5:30 p.m. in the City Council Chambers**

Visit the City's Website at www.ci.brainerd.mn.us

MISSION

"Provide high quality, cost effective public services and leadership in creating a sustainable city"

12/28/2023 02:02 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 01/02/2024 - 01/02/2024

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

Page: 1/4

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
Vendor 0078 - BRAINERD LAKES AREA DEV C:							
DEC 2023							
80850	BRAINERD LAKES AREA DEV C	12/28/2023	01/03/2024	2,916.63	2,916.63	Open	N
	DEC 23 ECONOMIC DEVELOPMENT CONSULTING	pziemer					12/31/2023
	295-6510-43300	PROFESSIONAL SERVICES		2,916.63			
	Total for vendor 0078 - BRAINERD LAKES AREA DEV C:			2,916.63	2,916.63		
Vendor 0088 - BREMER BANK:							
2024 BOX 10-11							
80842	BREMER BANK	12/11/2023	01/03/2024	100.00	100.00	Open	N
	SAFE DEPOSIT BOX 2024	pziemer					01/03/2024
	101-9200-43430	MISCELLANEOUS		100.00			
	Total for vendor 0088 - BREMER BANK:			100.00	100.00		
Vendor 0102 - CANON FINANCIAL SERVICE:							
31784178							
80746	CANON FINANCIAL SERVICE	12/24/2023	01/03/2024	80.69	80.69	Open	N
	FD COPIER CONTRACT 1/1/24-1/31/24	pziemer					01/03/2024
	225-2220-43331	LEASED PAYMENTS		80.69			
	Total for vendor 0102 - CANON FINANCIAL SERVICE:			80.69	80.69		
Vendor 0440 - DESTINATION DOWNTOWN BRAINERD COALI:							
DEC 2023							
80851	DESTINATION DOWNTOWN BRAINERD COALI	12/28/2023	01/03/2024	909.10	909.10	Open	N
	DEC 23 ECONOMIC DEVELOPMENT CONSULTING	pziemer					12/31/2023
	295-6510-43300	PROFESSIONAL SERVICES		909.10			
	Total for vendor 0440 - DESTINATION DOWNTOWN BRAINERD COALI:			909.10	909.10		
Vendor 2742 - DVS:							
SQD 443							
80701	DVS	12/20/2023	01/03/2024	20.25	20.25	Open	N
	2019 FORD VIN: 3545	pziemer					01/03/2024
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		20.25			
MSG TRAILER 2024							
80702	DVS	12/20/2023	01/03/2024	20.25	20.25	Open	N
	2012 MESSAGE TRAILER REGISTRATION VIN	pziemer					01/03/2024
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		20.25			
	Total for vendor 2742 - DVS:			40.50	40.50		
Vendor 2385 - GOVERNMENTJOBS.COM, INC:							

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
INV-39692 80666	GOVERNMENTJOBS.COM, INC 3/1/24-2/28/25 ONBOARD SUBSCRIPTION 101-0000-15510 101-1400-43309 101-0000-14100 101-0000-14100 Total for vendor 2385 - GOVERNMENTJOBS.COM, INC:	12/01/2023 pziemer PREPAID OTHER - 2025 COMPUTER TECHNICAL SUPPORT DUE FROM COMPONENT UNIT DUE FROM COMPONENT UNIT	01/03/2024	4,609.43 391.80 1,959.01 1,705.49 553.13 4,609.43	4,609.43 4,609.43	Open	N 01/03/2024
Vendor 0017 - KEVTEL CORPORATION:							
I-12152023 80685	KEVTEL CORPORATION 2024 2-WAY TOWER RENTAL 203-9000-43410 Total for vendor 0017 - KEVTEL CORPORATION:	12/19/2023 pziemer RENTAL EXPENSE	01/03/2024	5,043.00 5,043.00 5,043.00	5,043.00 5,043.00	Open	N 01/03/2024
Vendor 2058 - LAKES AREA HUMAN RESOURCE ASSN:							
1128 80674	LAKES AREA HUMAN RESOURCE ASSN 2024 MEMBERSHIP DUES 101-1400-43433 Total for vendor 2058 - LAKES AREA HUMAN RESOURCE ASSN:	12/17/2023 pziemer DUES & SUBSCRIPTIONS	01/03/2024	225.00 225.00 225.00	225.00 225.00	Open	N 01/03/2024
Vendor 3627 - LAKES AREA WILDLIFE CONTROL:							
DEC 2023 80778	LAKES AREA WILDLIFE CONTROL DEC 23 ANIMAL CONTROL SERVICES 225-2700-43300 Total for vendor 3627 - LAKES AREA WILDLIFE CONTROL:	12/27/2023 pziemer PROFESSIONAL SERVICES	01/03/2024	3,076.00 3,076.00 3,076.00	3,076.00 3,076.00	Open	N 12/31/2023
Vendor 3211 - NATIONAL PELRA ADMIN OFFICE:							
7044 80642	NATIONAL PELRA ADMIN OFFICE 2024 MEMBERSHIP - K.SCHUBERT 101-1400-43433 Total for vendor 3211 - NATIONAL PELRA ADMIN OFFICE:	12/18/2023 pziemer DUES & SUBSCRIPTIONS	01/03/2024	175.00 175.00 175.00	175.00 175.00	Open	N 01/03/2024
Vendor 2664 - RTVISION, INC.:							
INV545 80641	RTVISION, INC. ONEOFFICE (3 LICENSES) 2/1/24-1/31/25 101-1700-43309	12/18/2023 pziemer COMPUTER TECHNICAL SUPPORT	01/03/2024	3,600.00 3,300.00	3,600.00	Open	N 01/03/2024

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
	101-0000-15510	PREPAID OTHER		300.00			
	Total for vendor 2664 - RTVISION, INC.:			3,600.00	3,600.00		
Vendor 3612 - SEVERSON PORTER LAW:							
DEC 2023 80779	SEVERSON PORTER LAW	12/27/2023	01/03/2024	18,333.33	18,333.33	Open	N
	DEC 23 PROSECUTION AGREEMENT	pziemer					12/31/2023
	225-2127-43310	MISDEMEANOR PROSECUTOR		18,333.33			
	Total for vendor 3612 - SEVERSON PORTER LAW:			18,333.33	18,333.33		
Vendor 3838 - SWANSON HASKAMP CONSULTING:							
DEC 2023 80849	SWANSON HASKAMP CONSULTING	12/28/2023	01/03/2024	2,916.63	2,916.63	Open	N
	DEC 23 ECONOMIC DEVELOPMENT CONSULTING	pziemer					12/31/2023
	295-6510-43300	PROFESSIONAL SERVICES		2,916.63			
	Total for vendor 3838 - SWANSON HASKAMP CONSULTING:			2,916.63	2,916.63		
Vendor 3862 - TARGET SOLUTIONS:							
INV86908 80643	TARGET SOLUTIONS	12/08/2023	01/03/2024	4,285.00	4,285.00	Open	N
	2024 TARGET SOLUTIONS TRAINING	pziemer					01/03/2024
	225-2220-43330	PROFESSIONAL DEVELOPMENT		4,285.00			
	Total for vendor 3862 - TARGET SOLUTIONS:			4,285.00	4,285.00		
Vendor 0087 - VISIT BRAINERD:							
DEC 2023 80848	VISIT BRAINERD	12/28/2023	01/03/2024	3,333.26	3,333.26	Open	N
	DEC 23 ECONOMIC DEVELOPMENT CONSULTING	pziemer					12/31/2023
	295-6510-43300	PROFESSIONAL SERVICES		3,333.26			
	Total for vendor 0087 - VISIT BRAINERD:			3,333.26	3,333.26		

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						

# of Invoices:	16	# Due:	16	Totals:	49,643.57	49,643.57
# of Credit Memos:	0	# Due:	0	Totals:	0.00	0.00
Net of Invoices and Credit Memos:					49,643.57	49,643.57

--- TOTALS BY GL DISTRIBUTION ---

101-0000-14100	DUE FROM COMPONENT UNIT	2,258.62
101-0000-15510	PREPAID OTHER	691.80
101-1400-43309	COMPUTER TECHNICAL SUPPORT	1,959.01
101-1400-43433	DUES & SUBSCRIPTIONS	400.00
101-1700-43309	COMPUTER TECHNICAL SUPPORT	3,300.00
101-9200-43430	MISCELLANEOUS	100.00
203-9000-43410	RENTAL EXPENSE	5,043.00
225-2120-42221	SQUAD CAR REPAIR SUPPLIES	40.50
225-2127-43310	MISDEMEANOR PROSECUTOR	18,333.33
225-2220-43330	PROFESSIONAL DEVELOPMENT	4,285.00
225-2220-43331	LEASED PAYMENTS	80.69
225-2700-43300	PROFESSIONAL SERVICES	3,076.00
295-6510-43300	PROFESSIONAL SERVICES	10,075.62

--- TOTALS BY FUND ---

101 - GENERAL FUND	8,709.43	8,709.43
203 - TRANSIT FUND	5,043.00	5,043.00
225 - PUBLIC SAFETY FUND	25,815.52	25,815.52
295 - EDA FUND	10,075.62	10,075.62

--- TOTALS BY DEPT/ACTIVITY ---

0000 -	2,950.42	2,950.42
1400 - ADMINISTRATION	2,359.01	2,359.01
1700 - ENGINEERING	3,300.00	3,300.00
2120 - POLICE DEPARTMENT	40.50	40.50
2127 - MISDEMEANOR PROSECUTOR	18,333.33	18,333.33
2220 - FIRE DEPARTMENT	4,365.69	4,365.69
2700 - ANIMAL CONTROL	3,076.00	3,076.00
6510 - ECONOMIC DEVELOPMENT AUTH	10,075.62	10,075.62
9000 - TRANSIT FUND	5,043.00	5,043.00
9200 - CITY-WIDE	100.00	100.00

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:30 P.M. by Council President Bevans.

Upon roll call, the following members were noted as present: Stunek, Terry, Stenglein, Johnson, O'Day, and Bevans. Mayor Badeaux was noted as present. Member was Czeczok noted as absent.

Council President Bevans opened the meeting with the Pledge of Allegiance to the flag.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN TO APPROVE THE CONSENT CALENDAR.

- A. **Approval of Bills**
- B. **Approval of Minutes**
 - a. **Regular City Council Minutes December 4th, 2023**
 - b. **Special Council Meeting Minutes December 11th, 2023**
- C. **Approval of Licenses**
- D. **Department Activity Report**
- E. **Approve Tobacco License for Northern Tier Retail LLC, DBA Speedway 4076, 1223 S 6th Street**
- F. **Approve Secondhand Auto License- East Side Auto, 413 Washington St NE**
- G. **Approve Temporary Liquor License Submitted by the Brainerd Jaycees for an Event to be held at 602 S 5th Street on February 2nd, 2024- Contingent on Approvals**
- H. **Approve Engagement Letter Between Baker Tilly and City of Brainerd**

Upon roll call, Council Members, Stunek, Terry, Stenglein, Johnson, O'Day and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

Presentation

Community Member of the Month

Mayor Badeaux recognized Janelle Sanderson as Community Member of the Month for her work and dedication to the Community Meal served each Thanksgiving. This year's meal served 1,400 meals to community members.

The Brainerd Community Action Annual Presentation

Dave Badeaux, Brainerd Community Action, gave an overview of Community Action processes and budget.

Katie Deblock, Brainerd Community Action Board Member, thanked the Council for their continued support.

Council Committee Reports

Personnel and Finance Committee

Approve Shared Services Agreement with the Brainerd EDA

Committee Chair Johnson stated that Staff started tracking their time spent on EDA initiatives. The EDA approved their budget to include the \$17,000 requested by the City to cover salaries.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE 2024 SHARED SERVICES AGREEMENT WITH THE EDA IN THE AMOUNT OF \$17,000.

Accept Resignation of Assistant Planner Dylan Edwards

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO ACCEPT MR. DYLAN EDWARDS RESIGNATION EFFECTIVE DECEMBER 15, 2023; FURTHER, TO APPROVE THE UPDATED JOB DESCRIPTION AND AUTHORIZE STAFF TO BEGIN THE HIRING PROCESS TO BACKFILL THE ASSISTANT PLANNER POSITION.

Consider Using Local Program Income Funds for Demolition of Structure at 426 B Street

Committee Chair Johnson stated that the EDA approved the use of the funds for this purpose. The fund has about \$102,000 balance. The HRA identified the property as a good use of the funds to prep the site for a new single-family to be built by Habitat for Humanity.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND TERRY, DULY CARRIED, TO AUTHORIZE THE USE OF LOCAL PROGRAM INCOME FUNDS TO BE USED FOR 50% OF THE ASBESTOS ABATEMENT AND DEMOLITION OF THE STRUCTURE AT 426 B STREET, NOT TO EXCEED \$15,000.

Discussion on Joint Powers Agreement for Lakes Area Drug Investigative Division (LADID)

Committee Chair Johnson stated that the Joint Powers Agreement for LADID is up for auto renewal. The partners are not requesting any changes, the item is for discussion for Council if there are any proposed changes Council may have.

Update Regarding New Earned Safe and Sick Time Law/Policy

Committee Chair Johnson stated that the State of Minnesota passed the Earned Safe and Sick Time Law this last session. The law was directed more to the private sector, however, it does currently apply to the public sector. HR Director Schubert provided an update in the packet.

Consider Approval of the Social Media Policy

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE ATTACHED SOCIAL MEDIA POLICY AS PRESENTED.

Adopt Resolution Authorizing Housing Trust Fund Levy to Crow Wing County

Committee Chair Johnson stated that in order to pass a resolution on this matter a public hearing must be held first. The public hearing will be held on January 16th during the City Council meeting. The tax increase would be shown in the County's tax line items.

Safety and Public Works Committee

Final Pay Request - Improvement 22-10 Graydon Outfall

Committee Chair O'Day stated that this was an improvement that was budgeted at just over \$50,000.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO APPROVE THE FINAL PAY REQUEST FOR IMPROVEMENT 22-10 - GRAYDON OUTFALL IN THE AMOUNT OF \$56,816.

Approve Construction Testing Proposal for Buffalo Hills Gully Remediation Project

Committee Chair O'Day stated that this is the gully remediation materials testing.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO AUTHORIZE THE QUOTE WITH ITT IN THE TOTAL AMOUNT OF \$1,880.

Award Street Scanning Proposal

City Engineer/Public Works Director Dehn gave an overview of the proposals. In 2024 there is \$35,000 budgeted from construction 401 fund for the street scanning software. Staff recommended awarding the Good Pointe for tasks 1, 2, and 3 in the amount of \$59,640.

Committee Chair O'Day asked about where the funding for this project would come from and whether it is included in the budget previously presented at 6.24%.

City Engineer/Public Works Director Dehn stated that the funds would come from fund 401 which the City levies for each year.

Finance Director Hillman stated that this is a part of the permanent improvement fund that is authorized by the Charter to set a fixed levy for the purpose of improvements each year. It is set at 6% for 2024. It would not cause an increase in the levy for 2024.

Member Johnson stated that he would rather not award the contract.

Committee Chair O'Day stated that he supports street scanning as a way to protect against subjectivity and objectively analyze the condition of our streets. Street scanning would be a way to prioritize streets that need to be repaired. He doesn't see as much value for the sidewalks and signs.

Member Johnson stated that in a rough budget year he does not believe the City needs to be taking on additional costs. He will be voting no.

Member Terry stated that she supports the purchase but on a smaller scale since it is budgeted and under the budgeted amount.

Member Stenglein stated that in a different budget year she would have supported option 2.

Chair Bevans stated he could support this in the future.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN TO AWARD THE STREET SCANNING CONTRACT TO GOODPOINTE FOR TASK 1 AT A COST OF \$19,340 IN ADDITION TO THE SOFTWARE SETUP COST.

Members Terry and O'Day voted "aye". Members Stunek, Stenglein, Johnson, and Bevans voted "nay". The Chair declared the motion failed.

Direction on Active Code Enforcement

Committee Chair O'Day stated the owner of the property has not been in contact with Community Development at all.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO ISSUE A \$300 CITATION EVERY MONTH TO 319 9TH ST N UNTIL PROPERTY MAINTENANCE ISSUES HAVE BEEN CORRECTED.

Informational- Regarding \$25 Million Grant for Highway 210/Washington Street Reconstruction Project

City Engineer/Public Works Director Dehn stated that MnDOT was successful in being awarded \$25 million in federal grant dollars. MnDOT will start talks with the City to determine how the grant can be utilized how much of the \$7 million of the City's portion of the project is grant eligible.

Member O'Day asked about the possibility of using the funds for utilities or the recently approved decorative lighting.

City Engineer/Public Works Director Dehn stated that the use for utilities and lighting may be a possible eligible expense with the grant.

Mayor Badeaux thanked Senator Klobuchar for reaching out to him speaking of this project.

Unfinished Business

Commission Appointments

Mayor Badeaux recommended Karen Johnson and John Stubbs to the Library Board.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STUNEK, DULY CARRIED, TO APPOINT KAREN JOHNSON AND JOHN STUBBS TO THE BRAINERD LIBRARY BOARD.

Call for Applicants – Informational:

Mayor Recommended: (terms to expire on 12/31 of said year)

Charter Commission – 2 terms (Expire 2026) 2 terms (Expire 2025)

HRA 1 term (Expire 2029)

Library Board- 1 term (Expire 2030)

Parks & Rec- 1 term (Expire 2029)

Public Utilities- 1 term (Expire 2026) 1 term (Expire 2029)

TAC- 3 terms (Expire 2027)

Mayor Recommended: (terms to expire on 9/7 of said year)

EDA- 1 term (Expire 2026)

Council President Recommended: (terms expire on 12/31 of said year)

Parking Commission-- 1 term (Expire 2026) 1 term (Expire 2028)

Planning- 2 terms (Expire 2027)

Final Reading- Proposed Ordinance 1562- Revised Fee Schedule

Community Development Director Kramvik stated that no changes have been made since the first reading.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND TERRY, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE 1562 AND DISPENSE WITH THE ACTUAL READING.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND JOHNSON TO ADOPT ORDINANCE 1562.

ORDINANCE 1562

Upon roll call, Council Members, Stunek, Terry, Stenglein, Johnson, O'Day and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

New Business

Adopt Resolution Calling a Public Hearing On a Property Tax Abatement for Certain Property in the City of Brainerd

Community Development Director gave an overview of the tax abatement for the Country Manor project.

Member Johnson asked if this was a request for further tax abatement or a renewal of the request.

Community Development Director Kramvik stated that it was a renewal of the original. The project was put on hold due to the cost of materials and construction.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STENGLEIN TO ADOPT RESOLUTION CALLING FOR A PUBLIC HEARING ON A PROPERTY TAX ABATEMENT FOR CERTAIN PROPERTY IN THE CITY OF BRAINERD, MINNESOTA.

RESOLUTION 54:23

Upon roll call, Council Members, Stunek, Terry, Stenglein, Johnson, O'Day and Bevans. voted "aye". No member voted "nay". The Chair declared the motion carried.

Adopt Resolution - Approving Plans and Specifications, Authorizing Advertisement for Bids, and Call for Public Hearing - Improvement 22-08 - South Brainerd Reconstruction Project

Member O'Day stated that residents of S 6th Street have contacted him requesting that their alley be added to the project area. The residents access their homes only from the alley as their properties abut S 6th Street. The addition to the project would include utilities.

Chair Bevans asked whether the project could be approved without the formal addition of the alley to the project and whether it could be added to the project after the fact.

City Engineer/Public Works Director Dehn stated that Staff could provide more information about the project at one of the meetings in January. He recommends moving forward with adopting the plans and specifications for the project as it is currently proposed as the earlier the bid process the better the price for bids.

Member Johnson stated that a change order could be included later on to add this portion of the project to the current specifications.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STENGLEIN TO ADOPT RESOLUTION APPROVING PLANS AND SPECIFICATIONS, AND ORDERING ADVERTISEMENT FOR BIDS TO BE OPENED ON JANUARY 10, 2024, AT 10:00 A.M., AND SETTING THE PUBLIC HEARING FOR IMPROVEMENT 22-08 ON JANUARY 16TH, 2024 AT 7:30 P.M.

RESOLUTION 55:23

Upon roll call, Council Members, Stunek, Terry, Stenglein, Johnson, and Bevans voted “aye”. Member O’Day voted “nay”. The Chair declared the motion carried.

First Reading- Proposed Ordinance 1563- Amending Salaries for Elected and Appointed Officials

Interim City Administrator Wussow stated that this ordinance would formally adopt the changes that Council authorized to remain the same at the previous meeting for the elected and appointed officials.

Member Johnson stated that he supports the ordinance. The Council has consistently frozen Council pay for at least nine straight years. It is a good way to save the taxpayers a few bucks.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O’DAY, DULY CARRIED, TO CONDUCT THE FIRST READING OF PROPOSED ORDINANCE 1563 AMENDING SALARIES FOR ELECTED AND APPOINTED OFFICIALS AND DISPENSE WITH THE ACTUAL READING.

Discussion of City Administrator Salary

Interim City Administrator Wussow stated that there was an e-mail included in the packet from the consultant for the City Administrator search. He feels that there are additional applicants that could be reached if the base pay for the position was increased.

Member O’Day asked how the increase would affect the pay equity report.

HR Director Schubert stated that staff has not plugged the numbers in at this point. The current City Administrator is a male. The pay equity report will be reflective of whatever the Council sets the maximum City Administrator salary at by the end of December 2023.

Member O’Day stated that he wants the public to know it will depend on the gender of the City Administrator whether or not the City is compliant with the pay equity policy. This change also affects compliance.

HR Director Schubert stated that gender is a factor, not the only factor.

Member Johnson stated that under no circumstances does the City take gender into account when hiring. The gender of the top positions does affect the pay equity compliance. He asked if the wage for the City Administrator is changed to a higher amount, will a significant number of other positions need to be adjusted as well to stay in compliance.

Interim City Administrator Wussow stated there will need to be other changes, but not a “significant” number. The top few positions will need to be reevaluated.

Member Johnson stated that based on the market comparable cities he feels option 1 is the correct choice, however, this could put the City in the same situation as when the City was externally hiring a Police Chief. Option 2 is a significant change. The City wants to pay its employees at or slightly above the median income.

Chair Bevans asked Interim Administrator Wussow if he believes that the wage is affecting the number of applicants.

Interim City Administrator Wussow stated that yes, he does believe it is a factor.

Member O'Day stated that he would vote no, it is a significant amount. He'd like to think that the City is more responsible in regard to how they spend taxpayer dollars.

Member Johnson stated that there are some applicants with the current pay range.

Member Terry stated that with the number of applicants at the current range, the current job market, and the reputation of the City Council it is going to take more money to get applicants in the door.

Mayor Badeaux stated that he didn't know the Council had a reputation. The amount is an absurd amount of money, it will have an effect on all levels of employment. The City wants to pay its employees fairly. However, applicants have submitted.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STENGLEIN TO ELECT OPTION 2 FOR THE CITY ADMINISTRATOR OPENING BY INCREASING THE HIRING SALARY RANGE TO \$139,963- \$155,958.

Upon roll call Members Stunek, Terry, and Stenglein voted “aye”. Members Johnson, O'Day, and Bevans voted “nay”. The Chair declared a tie. Mayor Badeaux voted “nay”. The Chair declared the motion failed.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY TO ELECT OPTION 1 FOR THE CITY ADMINISTRATOR OPENING BY INCREASING THE HIRING SALARY RANGE TO \$130,998-\$145,974.

Upon roll call Members Stunek, Stenglein, Johnson, O'Day, and Bevans voted “aye”. Member Terry voted “nay”. The Chair declared the motion carried.

Adopt Resolution Setting the 2024 Levy for the City and Brainerd HRA

Finance Director Hillman gave an overview of the levy certification process. The preliminary levy was set at \$7,121,720, a 10.53% increase. She also stated that the City was below the fund balance policy at the end of 2022.

Interim City Administrator Wussow stated that following the budget presentation on December 11th, the Council went into closed session to talk about union negotiation processes. The direction given at the closed session is not included in the current budget. He recommends an 8% increase to the levy.

Member Johnson stated that it absolutely pains him to set the levy at 8%, but it is where the current state of the City is with union negotiations, increase to the City Administrator salary, and with the fund balance policy. The City should not be taking risks hoping that it works out.

Member O'Day stated that he previously said he would not be voting for anything above 6%, he will be sticking to his statement. There are always line items in the budget that are not needed. He thinks the pay study is garbage and meeting pay equity has turned a lot of budgets into garbage and he wonders what the citizens are going to see from an 8% increase.

Mayor Badeaux stated that this is the highest levy increase he recalls in his time on Council. He believes that the Council has worked to keep the levy increases as low as possible. Inflation is out of control. It does pain him to approve an 8% increase. He stated that moving forward he wants to see the Council take a hard stance to maintain the budget.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN TO SET THE 2024 LEVY AT \$6,958,980 (8% INCREASE) AND THE HRA LEVY AT \$173,960.

RESOLUTION 56:23

Upon roll call, Council Members, Stunek, Terry, Stenglein, Johnson, and Bevans. voted "aye". Council Member O'Day voted "nay". The Chair declared the motion carried.

Adoption of 2024 Budgets

Finance Director Hillman stated that the General fund budget needs to be approved by the end of the year. Due to the levy the budget will need to be amended. The property tax line item will be \$4,002,650 rather than the \$3,889,462 presented.

MOVED AND SECONDED BY COUNCIL MEMBERS TERRY AND STENGLEIN TO ADOPT 2024 BUDGETS AS AMENDED.

Upon roll call Council Members Stunek, Terry, Stenglein, and Bevans voted "aye". Council Members Johnson and O'Day voted "nay". The Chair declared the motion carried.

Public Forum

The Chair opened the public forum at 8:32 p.m.

No one came forward.

The Chair closed the public forum at 8:33 p.m.

Staff Reports

City Engineer/Public Works Director Dehn stated that the Parks Department is working to try to make ice. With the weather there is a delay.

Community Development Director Kramvik stated that the EDA toured Lexington as a part of their business retention visits. The EDA website will be ready to launch in the new year. The EDA directed staff to work with Kamp Realty to list the industrial lots. The Planning Commission will continue to consider the short-term rental at the next meeting.

Mayor's Report

Mayor Badeaux said Merry Christmas to all. The Holiday Hayrides were held on Saturday, it was a great turn out. He also stated that he tends to crack a lot of jokes, from time-to-time things he says are taken wrongly. He apologizes for anything that was misunderstood. The remarks he made about follow-thru were directed toward the City Council. The Council is here to do the people's work.

Council Member Reports

Member Stenglein stated that she was invited to join the landlord group for their monthly meetings. She thanked HRA Director Charpentier for his presentation to the group.

Member O'Day thanked everyone for coming out on Saturday to the Holiday Hayrides.

Chair Bevans stated that he presented the Tower Award to Elaine Kramer from the Fire Department. He thanked Elaine for her years of service.

Member Johnson stated that Finance Director Hillman did a good job on the budget this year. He was critical, but she did a great job. He's ready to start work on 2025.

Member Terry stated that staff did a great job with the employee Christmas event.

Member Stunek wished everyone a Merry Christmas.

Adjourn

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 8:50 p.m.

Patrick Wussow
Interim City Administrator



CITY ENGINEER/PUBLIC WORKS DIRECTOR REPORT JANUARY 2, 2024 CITY COUNCIL MEETING

Recreation Report

Recreation Specialist Hiring Update

- We extended an offer to a candidate and was accepted. We have started the background check and onboarding process.
- The new Recreation Specialist may start shortly following the new year.

Winter Activities/Sports

- Youth Pond Hockey
 - The YMCA has opened the registration for Youth Pond Hockey.
 - Registration can be done online and the cost is \$60 per registrant.
 - Adult Pond Hockey
 - The YMCA has opened the registration for Adult Pond Hockey.
 - Registration can be done online and the cost is \$100 per registrant.
 - Warming House Attendants
 - Staff has received over 10 applicants for the position. We are intending to hire 10 warming house attendants for the 2024 season.
 - As an additional benefit of the position, YMCA is offering free membership during the employment period.
-

Parks Maintenance Report

- Fixed accessible picnic tables damaged due to vandalism at Lyman P White Park
- Took delivery of new steel tables for parks
- Hauled brush
- Garbage runs and Buster dog park maintenance
- Put together new steel picnic tables
- Hung LED light in shop
- Cleaning shop and cold storage
- Hanging cupboards in new shop for more storage
- Cut up fallen tree behind Mills Field
- Welding mower parts
- Fixed a panel on Bane playground
- Moving pond hockey equipment
- Clearing out behind old shop
- Cleaning out cold storage
- Trimming trees
- Went through all fishing equipment and poles for Fishing Clinic – tied up rods
- Made rack and organized
- Brought key machine to new shop, cleaned and serviced
- Hauling old scrap metal from Lum site
- Brining wood chips to Buster dog park

- Had outlets installed in new shop for surveillance equipment
 - Clearing snow from sidewalks and trails
 - Flooding as weather permits
 - Cleaning vehicles and equipment
 - Cleaning tractor
 - Took down Buffalo Hills park sign
-

Projects Report

Parks ARPA Projects

Staff is presenting the 95% plans to the Park Board. Once approved, staff will be advertising the projects for bid. It is expected that work will take place through spring and summer 2024.

Buster Park Pavilion

The pavilion is now in fabrication. It will take several weeks to fabricate before it can be installed. Staff will be waiting until spring for installation.

Memorial Park Disc Golf Course

The disc golf group has completed staking out locations for tees and baskets. They are proposing a variable basket locations that they would rotate throughout the season. There would be some additional costs to this beyond what was originally expected. They are also looking for better sign options than what is provided by Innova (disc golf vendor). With the additional costs for their request, they are committing to cover costs beyond the budget that the City has provided. Once their league board votes on the layout, we will bring an item to the Park Board with a breakdown of expected costs for the Board's information.

Streets Maintenance Report

Maintenance Tasks Completed Month Prior

- Sewer inspection on Beech Street
- Sewer inspection on alley between S. 6th and S. 7th Streets
- Marking utility locates
- Salt/sand spreading after icing
- Began brushing and tree trimming throughout the city
- Hauling leaves from locations to the pit
- Assisted with traffic control for coring samples on S. 6th Street
- Replacing miscellaneous street signage
- Outfitting all dump trucks and graders for winter operations
- Patching on N. 6th/Grove intersection
- Moving gravel materials within the pit location
- Repairing dump truck door damage caused by MnDOT truck

Engineering Report

North Brainerd Reconstruction Project

Most of the construction on the project is completed. Final turf establishment will be addressed in spring 2024.

TH 25 Bridge Replacement over BNSF Railway

The bridge is open to traffic and the detour is removed. Trail work on the west side of the bridge is incomplete and planned for completion in spring 2024.

S. 6th/Willow Roundabout Project

There was a Public Open House to gather public comment on the project on Wednesday, December 13th at City Hall. General support for the project was received by residents that attended the event. Staff has continued to have discussions with MnDOT regarding details of the layout including accesses. SEH has completed a draft ICE report and collected soil samples for environmental documentation.

SW 4th Street Storm Outfall Project

The contractor has completed the permanent repairs on this project, including seeding and tree planting. Staff will monitor the site for stability until final turf establishment can be evaluated in Spring 2024.

Buffalo Hills Gully Remediation Project

The Contractor has begun clearing and grubbing of trees within the project area. They have also begun placing gravel bedding with new pipe sections to follow. Work will continue as weather allows. Completion will occur in the spring of 2024.

Other Activities

- Reviewed Erosion and Sediment Control plan for proposed developments
- Completing design of South Brainerd Reconstruction project
- Reviewed petition from property owners adjacent to alley between S. 6th and S. 7th Streets
- Reviewed and commented on draft alignment for watermain replacement on TH 210 Reconstruction
- Participated in Lyman P. White Streambank Restoration Pre-Construction meeting
- Participated in Buffalo Hills Gully Remediation Pre-Construction meeting
- Participated in weekly check-in meetings for TH 371B/Willow Street Roundabout Project
- Reviewed Country Manor development site and utility plans, sent Developer Agreement considerations
- Met with potential developers regarding various possible residential home developments
- Interviewed candidates for Recreation Specialist position
- Met with SRF regarding funding opportunities for the TH 210/Lum Park Pedestrian Bridge project
- Met with MnDNR and CWC SWCD regarding tree clearing issues at BIC property
- Reviewed proposals for the Street Pavement Evaluation request for proposals
- Reviewed ADA requirements for on-street parking
- Delivered annual performance reviews for Public Works staff
- Provided TH 371B/Willow Street Roundabout information to Dispatch
- Participated in Community Focus on WJJY
- Reviewed request for street lighting on Whippoorwill Lane
- Clarified question by Dispatch regarding details of Highway 210 Reconstruction project
- Reviewed Parks ARPA plan sheets and provided comments, began preparing cost estimates
- Reviewed cost splits for CLST West Segment

Transit Report

Activities

- Received compliant/in accordance with auditors review report for Transit MnDOT 2022 contract.
- Working with RouteMatch on updating billing module
- Executed PA's memorandum of understanding
- Improving customer service by third party contractor via customer service training
- 3PC providing drivers with full CPR & first aid training Jan 2024.
- Completed 3rd quarter invoicing
- Worked with MnDOT on 2023 vehicle inspections (audit on vehicle maintenance) and was able to receive an acceptable review after providing MnDOT with my well documented & organized maintenance records to show if it was noted on pretrip/post trip the issue was resolved using a vendor to correct the issue. Signed the approved inspection forms this morning & sent back to MnDOT.
- The call answered percentages are at an average of 94% recently, which is well above the expected rate of 85% answered.
- Ridership Reporting for October 2023
 - Year To Date
 - 1/1/22-10/31/22 = 49,051
 - 1/1/23-10/31/23 = 42,848 (-6,203)
 - November Only
 - November 2022 = 4,557
 - November 2023 = 2,715 (-1,842)
 - October 2023 vs. November 2023
 - October 2023 = 2,884 (22 operating days)
 - Brainerd-origin = 2,132
 - Baxter-origin = 499
 - CWC = 253 (*service changes effective 9/11*)
 - November 2023 = 2,715 (-169) (20 operating days)
 - Brainerd-origin = 2,039 (-93)
 - Baxter-origin = 514 (+15)
 - CWC = 162 (-91)
 - 22 New Customers in November
 - Likely reasons for declines in November 2023 vs. 2022
 - Loss of Pine River effective 7/14
 - Brainerd fare increase from \$1.25 (2022) to \$2.25 (June 2023) to \$3.00 (8/21/23)
 - Baxter fare increase from \$2.25 (2022) to \$7.00 (2023)
 - Crow Wing County service changes and fare increase effective September 11, 2023



Brainerd Fire Department Monthly Report

December 2023

ACTIVITIES AND PUBLIC EDUCATION

As we conclude 2023, it is significant that the Brainerd Fire Department is on the verge of another record-breaking year in call volume. This accomplishment speaks volumes about the dedication and commitment of the men and women who diligently serve our community. Their unwavering efforts contribute significantly to the department's success, and we take great pride in acknowledging their outstanding service. This achievement reflects not only the department's efficiency but also the positive impact it has on our community's safety and well-being.



We celebrated Elaine Kraemer's career as our Fire Administrative Specialist. For 22 years, she has been an invaluable asset to the city, with the last 17 years dedicated to the fire department. Throughout her tenure, Elaine has exhibited untiring dedication, professionalism, and a passion for ensuring the safety and well-being of our firefighters and the community. Her contributions have left an indelible mark on the department and the city at large. As we celebrate her accomplishments, we express our deepest

gratitude for the hard work, leadership, and exemplary service that Elaine Kraemer has consistently provided throughout her remarkable career.

TRAINING

It's been an active month of firefighter training, with a significant emphasis on EMS training, particularly in bleeding control—a crucial aspect of emergency response.



Additionally, the department engaged in ice/open water rescue training on Rice Lake, further enhancing their skills and preparedness for diverse situations.

The commitment to comprehensive training reflects the dedication of the firefighters to ensuring the highest level of proficiency in responding to a wide range of emergencies.





Brainerd Fire Department Monthly Report

December 2023

INSPECTIONS	
Fire Alarm	12
Fire Pump	2
Hood Suppression	20
Knox Box Install Inspection	0
Special Suppression	8
Sprinkler System	11

BRAINERD FIRE COVERAGE AREA INCIDENT REPORT	
Type of NFIRS Incident (National Fire Incident Reporting System)	Coverage Area Total Incidents (Includes City of Brainerd)
Fire	5
Rescue & Emergency Medical Service	7
Hazardous Condition	4
Service Calls	6
Good Intent Call	7
Alarm Activation	12
Severe Weather	0
TOTAL	41
Type of NFIRS Incident (National Fire Incident Reporting System)	City of Brainerd Total Incidents
Fire	4
Rescue & Emergency Medical Service	2
Hazardous Condition	1
Service Calls	4
Good Intent Call	2
Alarm Activation	8
Severe Weather	0
TOTAL	21



EMERGENCY NOTIFICATIONS

EVERBRIDGE enables critical information to be sent to residents of Crow Wing County by phone, text and email. Use the QR Code or sign up at:
<https://member.everbridge.net/index/892807736729514#/signup>



HR DIRECTOR REPORT



In this report:

- Classification and Compensation Study
- Union Negotiations
- Employee Policy Manual (EPM) Update
- Personnel
- Wellness Committee

Classification and Compensation Study

Flaherty & Hood (FH) has concluded its review of the Job Evaluation Points Appeals. During the review process, employees were given an opportunity to appeal the points assigned to their classification. Employees were asked to submit an Appeal Form. Sixteen employees completed and submitted the form. Employees were also given an opportunity to meet with HR Director Schubert to further discuss the rationale for their appeal. After each appeals meeting, HR Director Schubert prepared a meeting summary that was submitted to FH with the employee's original appeal form and documentation.

FH has provided the City with a memo regarding its recommendation for each appeal. Based on FH's recommendations, no points were adjusted.

Union Negotiations

A tentative agreement was reached with the IUOE Street Division Union on December 18th; however, union members did not approve the terms when a vote occurred on December 27th. More negotiations will be scheduled in the near future.

Mediation has been scheduled for the IBEW Public Utility and Administrative Support Unions for February 8 and 9, 2024. Proposed 2023 wages were presented to the IBEW Union for our four new positions. The IBEW Union has not accepted those wages at this time and we cannot start advertising to fill those positions until an agreement is reached.

EPM Update

Our employment law attorney has reviewed and provided an updated Employee Policy Manual (EPM) with the necessary revisions to comply with the 2023 Legislative law changes. The updated EPM will be presented at the January 2, 2024, Council meeting for consideration.

Personnel

New Hires/Promotions for City/BPU/HRA:
Kathryn Johansen-Adm Specialist/Public Works (12/20)
Haley Blank - Recreation Specialist (1/17)
Thomas Daniels - HRA Maintenance Specialist (12/11)

Farewell to:
Dylan Edwards - Assistant Planner (12/15)

Current Job Opportunities:

Administrative Specialist II - Fire Department
Conditional Job Offer given and is going through the pre-employment process

Police Records Management Technician - Conditional Job Offer given and is going through pre-employment process

Maintenance I Street & Sewer Division - Conditional Job Offer given and is going through the pre-employment process

Journey Electrical Lineworker - Planning to have interviews the second week of January.

Assistant Planner - Accepting applications through January 2, 2024.

HRA Rental Assistance Specialist - Accepting applications until filled.

City Administrator -- First review of applications on December 31, 2023. Applications will be reviewed by the Council on Tuesday, January 16, 2024 at 5:30 pm to select finalists for interviews.

Part-time/Internships/Seasonal Positions:

Warming House Attendants - Accepting applications until all 10 openings are filled.

There are currently 8 City/HRA/Airport employees with Family & Medical Leave Act (FMLA) issues. 6 of those cases are for intermittent leave when needed.

Wellness Committee

Thank you to all who participated in our Santa to a Senior event through Home Instead. Together we collected and donated approximately 50 gifts to be distributed to Seniors to help bring a little extra joy to their holiday season.

On December 13th, the Wellness Committee organized "A Christmas Dinner to Remember" featuring a traditional holiday meal prepared by The Green Lantern. The food and attendance was great with both sessions being full. In addition, there was a fun DIY ornament, goofy game, prizes and excellent social interaction. Many thanks to the Wellness Committee members for organizing another fun event for our Staff!



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Adopt Resolution Designating Financial Institutions as Depositories for 2024

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER:

ESTIMATED TIME (MIN):

SUMMARY OF ISSUE: Per Minnesota Statute 118A, city councils must designate one or more financial institutions as a depository of city funds. Please see the attached proposed resolution.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: The recommended action is to adopt the proposed resolution.

FINANCIAL IMPACT:

R E S O L U T I O N
No. XX:24

RESOLUTION DESIGNATING CITY DEPOSITORIES

WHEREAS, pursuant to Minnesota Statute 118A, the City shall designate a bank or banks to be a depository or depositories of moneys of the City; and

WHEREAS, the City has existing relationships with a number of financial institutions and desires to continue to those relationships in 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRAINERD, MINNESOTA, that the following financial institutions are designated as approved City depositories:

1. Bremer Bank
2. Wells Fargo
3. US Bankcorp
4. Deerwood Bank
5. RBC Capital Markets, LLC
6. 4M Money Market
7. Moreton Capital Markets
8. PMA Financial Network, Inc.

Adopted this ____ day of January, 2024

KELLY BEVANS
President of the Council

Approved this ____ day of January, 2024

DAVE BADEAUX
Mayor

ATTEST: _____
PATRICK WUSSOW
Interim City Administrator



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Annual Authorization to Perform Electronic Transfers

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER:

ESTIMATED TIME (MIN):

SUMMARY OF ISSUE: Per Mn Statute 471.38 Subd. 3a (a) in order for a city to perform electronic transfers, one of the requirements is that "the governing body shall annually delegate the authority to make electronic funds transfers to a designated business administrator or chief financial officer or the officer's designee."

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: City and BPU accounting staff make electronic transfers regularly, such as making bond payments, investment transactions, as well as certain payments to vendors. There are controls in place, such as username and passwords, dollar limits on transactions, and verification of transactions if over a certain dollar amount.

RECOMMENDED ACTION/MOTION: Recommended motion is to delegate the Finance Director and Finance Manager, or their designee to make electronic transfers as deemed necessary by the Finance Director or Finance Manager to conduct City business in 2024.

FINANCIAL IMPACT:



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Designate the Brainerd Dispatch as the Official Newspaper for Calendar Year 2024 pursuant to the City Charter and Authorize Signatures on Contract with Dispatch

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER:

ESTIMATED TIME (MIN):

SUMMARY OF ISSUE: Pursuant to City Charter, Chapter 2, Number 25: The Council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published Ordinances and other matters required by law to be so published as well as such other matters as the Council may deem it in the public interest to have published in this manner.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: The Dispatch also offers the City a reduced rate per inch based on the volume. If we don't reach the volume in the agreement, next year's rate will be based on a lower volume level. The 2023 agreement with the Dispatch was based on a volume level of \$10,000 and a rate of \$12.41 per inch. Per the attached letter, the 2024 rate will be \$12.12 per inch. The agreement with the Dispatch is forthcoming. The assumption based on history is that the 2024 rate is established on a volume level of \$15,000.

RECOMMENDED ACTION/MOTION: Approve the Brainerd Dispatch as the legal newspaper and authorize signatures on agreement with the Dispatch for a rate of \$12.12 per inch.

FINANCIAL IMPACT: A fixed dollar amount was budgeted for publications.

To: The Brainerd City Council
Re: Legal newspaper for 2024

The Brainerd Dispatch is applying to continue as the legal publication for the City of Brainerd in 2024. We're proud of the relationship, including publishing news coverage of the monthly council meetings.

All legal notices are published in the Brainerd Dispatch classified section and also available on the brainerddispatch.com website. This year, Minnesota recognizes digital newspaper subscriptions for the E-edition. Legals are also published on those digital pages with more than 4,000 subscribers.

The Brainerd Dispatch publishing legal rate for 2024 will remain at \$12.12 per column inch, which includes being posted online at no additional charge.

Thanks for considering the Brainerd Dispatch for publishing City of Brainerd legal notices in 2024.



Pete Mohs
Publisher
Echo Journal/Brainerd Dispatch
(218) 855-5855

RECEIVED

DEC 13 2023

**CITY OF BRAINERD
ADMINISTRATION**



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Adopt Resolution Approving Signature Authorization for 2024 Capital Projects for the Brainerd Lakes Regional Airport

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman; Steve Wright

DEPARTMENT: Finance

PRESENTER:

ESTIMATED TIME (MIN):

SUMMARY OF ISSUE: Annually, the City adopts a resolution authorizing the Chairman or Vice Chairman of the Airport Commission to be the representative of the City of Brainerd, and to sign any and all documents relating to 2024 capital projects of the airport and any amendments that may arise. A proposed resolution is attached.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: The recommended action is to adopt the proposed resolution.

FINANCIAL IMPACT: N/A

**RESOLUTION
NO. xx:24**

SIGNATURE AUTHORIZATION FOR 2024 CAPITAL PROJECTS FOR THE
BRAINERD LAKES REGIONAL AIRPORT

BE IT RESOLVED that the Chair and/or Vice Chair of the Brainerd Lakes Regional Airport Commission is hereby authorized and directed to act as the authorized representative of the City of Brainerd for all 2024 capital projects for airport operations, and the same is hereby authorized and directed to execute and affix his/her signature to any and all required documents pertinent thereto, and all amendments thereof.

Adopted this ____ day of January 2024

KELLY BEVANS
President of the Council

Approved this ____ day of January 2024

DAVE BADEAUX
Mayor

ATTEST: _____
PATRICK WUSSOW
Interim City Administrator



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Approve Hiring of 2023-2024 Warming House Attendant Temporary Employees

AGENDA: Consent

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): n/a

SUMMARY OF ISSUE: Attached is a listing of 2023-2024 Parks Warming House Attendant temporary employees that have currently received a conditional job offer and have successfully completed their background checks. Please note we are planning to hire ten Warming House Attendants for the 2023-2024 season.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

Pursuant to MN Statute, seasonal assignments are limited to 67 working days per calendar year or 100 working days per calendar year if the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment.

RECOMMENDED ACTION/MOTION: Motion to authorize the hiring of the 2023-2024 Warming House Attendants as presented on the attached listing.

FINANCIAL IMPACT: Positions are included in the 2023-2024 budget.

2023-2024 Warming House Attendants

	<u>Name</u>	<u>Job Title</u>	<u>Date of Hire</u>	<u>Hourly Rate</u>
*	Terry Berger	Warming House Attendant	12/20/2023	\$16.00
*	Ashton Koering	Warming House Attendant	12/20/2023	\$16.00
*	Lydia Ziemer	Warming House Attendant	12/20/2023	\$16.00
	Mia Ziemer	Warming House Attendant	12/20/2023	\$16.00

Submitted for Consideration for the January 2, 2024 Council Meeting

* Returning Employee



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Approval of the Revised Employee Policy Manual

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 5 Minutes

SUMMARY OF ISSUE: Attached you will find the updated Employee Policy Manual (EPM). The primary changes to the EPM are based on our employment law attorney's review and necessary updates to comply with the 2023 Legislative law changes and to also incorporate some policy changes that the Council has enacted this past year.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Please note that the new Earned Safe and Sick Time Policy will be considered as a separate agenda item for the 1/2/24 Council meeting; therefore, the final version of that policy will be inserted into our final EPM as approved by Council. Also, all Staff will receive an updated copy of the Employee Policy Manual and asked to sign and return the acknowledgment page which will be placed in their personnel file.

RECOMMENDED ACTION/MOTION: Motion to approve the updated Employee Policy Manual as presented.

FINANCIAL IMPACT: N/A

Adopted: August 1, 2022

Employee Policy Manual

City of Brainerd

Commented [KS1]: Update to new Council
Approval Date

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Page No.

Commented [KS2]: TOC will be updated after final 2023 version is approved by Council.

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ARTICLE 1. PURPOSE

Section 1.01 Policy Statement

The City Council of the City of Brainerd ("City") deems it advisable to establish a policy governing the relationship between the employees and the City, and to provide procedures for its administration. In the formation of this policy, the Council recognized that the City is a political [Section-subdivision](#) of the State of Minnesota and the Employee Policy Manual must conform to applicable law. Within this framework, the Council can establish governing principles upon which a progressive, comprehensive and efficient program of employee relations may be based.

Section 1.02 General

The purpose of this manual is to help you to better understand the policies and procedures which affect and guide your employment with the City of Brainerd. These policies are not and cannot be construed as contract terms, a guarantee of continued employment, or terms and conditions of employment. This manual replaces, revokes, and supersedes any previous personnel policies, interpretations, and practices. This manual is only valid until amended or replaced by the City Council.

This manual is not intended to cover all circumstances that might arise. Employees should become thoroughly familiar with the provisions of this manual within ten (10) business days of their receipt of this manual. —Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment, meaning that such employment may be terminated by the employee or the City at any time, for any legal reason or no reason at all.

Section 1.03 Amendment to Policy

The City reserves the right to modify, revoke, suspend, or change the language of this personnel policy handbook or any individual policy or policies, in whole or in part, at any time, with or without notice, at the City Council's sole discretion.

Section 1.04 Equal Opportunity and Affirmative Action

The City of Brainerd is an Equal Opportunity Employer. The City will comply with all applicable laws governing equal employment opportunity and affirmative action. This policy extends to all applicants and employees and to all aspects of the employment relationship including, but not limited to, recruiting, hiring, promotion, transfer, and compensation.

Specifically, the City of Brainerd will provide equal employment and advancement opportunity on the basis of merit within the context of its unique business environment and without regard to race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

The Human Resource Director is the designated Equal Employment Opportunity/Affirmative Action Coordinator who has been charged with ensuring that the City of Brainerd's EEO/AA policies are carried out.

If any employee, or applicant for employment, believes he/she has been discriminated against, please contact the Human Resource Director at 501 Laurel Street, Brainerd, MN 56401 or call (218) 828-2307.

ARTICLE 2. SCOPE OF POLICY

Section 2.01 Personnel Covered

This manual generally applies to all City employees, including probationary employees, appointed officials, and elected officials, except to the extent that this manual conflicts with applicable law or collective bargaining agreements. Certain provisions of this manual may be inapplicable to the following individuals:

- A. All elected officials;
- B. Members of City boards, commissions and committees;
- C. Volunteer personnel and emergency employees;
- D. Consultants and/or contracted personnel.

Section 2.02 Employees Covered by Labor Contracts

All provisions of this policy apply to employees covered by collective bargaining agreements, except when such provisions are in conflict with collective bargaining agreement provisions, in which case, such provisions of the collective bargaining agreement shall control.

ARTICLE 3. INTERPRETATION

The purpose of this manual is to provide a basis for the safe, orderly, and disciplined employment environment. This policy is intended to promote knowledge of what is expected of personnel generally, which should result in a greater degree of self-assurance in all positions. In relationships between positions, it should be each City

employee's individual aim to build mutual respect and confidence which is essential to local government service.

To the extent that any federal, state, or local law, ordinance, rule, or regulation conflicts with any policy or policies herein, the applicable law, ordinance, rule, or regulation shall control. To the extent that any federal, state, or local law, ordinance, rule, or regulation imposes stricter requirements on an area governed by these policies, the applicable law, ordinance, rule, or regulation shall control.

Additional information or clarification as to each ARTICLE of this personnel policy may be obtained from your supervisor, department head or the Human Resources Department. This manual is only a start in our communication network because the City maintains a continuous process of communicating policies and benefits to all staff members. The text of this manual, however, takes precedence over and controls any inconsistent communication from any City employee or elected official.

This manual summarizes the various policies and benefits currently provided by the City. Nothing contained in this personnel policy or in any other City document, and nothing said or done by a City employee, is, or can be construed as an employment contract between the City and an employee, as a guarantee of continued employment, or terms and conditions of employment. The City and the employee both have the right to terminate the employment relationship at any time, for any legal reason or no reason at all. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment.

ARTICLE 4. IMPLEMENTATION OF THIS POLICY

It is the responsibility of all Department Heads and Supervisors to ensure implementation of this policy. Failure of any employee to perform in a manner consistent with this policy, State or federal Law will be grounds for discipline, up to and including immediate termination.

The City Administrator is hereby given authority for the administration of the policies contained in this manual, as directed by the City Council.

ARTICLE 5. GENERAL INFORMATION

Section 5.01 Data Practices Advisory

In accordance with the Minnesota Government Data Practices Act ("MGDPA"), the City is required to inform employees of their rights as they pertain to any private information that the City collects from them. During the course of City employment, an employee will likely be asked to provide information which is classified by state law as either private or

confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data. Much of the data the City has about individual employees, however, is classified as public according to Minnesota Statutes, ARTICLE 13.43, Sections 2 and 3 (as amended). Consistent with the relevant provisions of the MGDPA, all public data is available for inspection and copying by members of the public, with or without the employee's consent.

Information about employees requested by the City may be used for the following purposes: (1) to process payroll, including accounting for wages and fringe benefits and to justify any reimbursed expenses; (2) enroll in benefit programs and pension plans; (3) evaluate the employee's job performance, eligibility and abilities; (4) distinguish the employee from other applicants and employees and identify the employee in the correct personnel file; (5) determine the employee's eligibility for employment or promotion, and make employment decisions about the employee's performance; (6) contact the employee or other significant persons in case of an emergency; (7) compile equal opportunity and any affirmative action reports required by applicable law; (8) make decisions regarding the employee's eligibility for sick leave, family and medical leave, parenting leave, and other available leave; (9) make decisions regarding the employee's eligibility for workplace accommodations, including accommodations for disabilities; (10) comply with workers compensation requirements in the event of an injury; and (11) provide information during workplace investigations. Such information may also be used and disclosed for other purposes consistent with applicable law. The information provided by the employee may be used in performance evaluations, determinations regarding merit pay, applications for different employment positions, and other matters which involve a review of the employee's personnel file and past performance.

Unless the employee is told otherwise, the employee is required to provide this information. If the employee refuses to supply the information, the employee may face disciplinary action. Any information which the employee is required to provide cannot be used against the employee in a criminal proceeding. Even if the employee is not required to provide information, it is generally to the employee's best interest to provide it. Without the requested information, the City may not be able to determine the employee's eligibility for employment opportunities, compute wages, or grant the employee other benefits. The employee's refusal to provide information during an employment investigation may also necessitate that the investigation be completed without his or her input.

Federal law permits government agencies to require individuals to provide their social security number for the administration of any tax. Please be aware that when an employee is asked to give his or her social security number on revenue forms, this collection is mandated by law. This information will be shared with the Minnesota Department of Revenue, the Internal Revenue Services, and security tax programs. In most other cases, the disclosure of an employee's social security number is voluntary.

Any information an employee is asked to provide may be shared with individuals within the City whose job duties reasonably require access, as well as individuals outside of the City whose duties require access, such as insurance vendors, consultants, attorneys, and retirement plan employees. Information may also be shared with other agencies authorized by law to receive specific data.

If litigation arises, some or all information may be provided in documents filed with the court which are available to any member of the public. If it is reasonably necessary to discuss the information at an open City Council meeting, some or all data may be available to members of the public. To the extent that some or all of the information is part of the basis for a final decision on disciplinary action, that information may become public, as provided in Minnesota Statutes, ARTICLE 13.43 (as amended).

Section 5.02 Conduct as a City Employee

A. Scope of Policy

It is the policy of the City of Brainerd to maintain a respectful work and public service environment free from violence, discrimination, and offensive or degrading remarks or conduct. Preserving a respectful environment in which to work is the shared responsibility of both management and employees. Inappropriate conduct or communication can interfere with an individual's employment or use of public services, or create an intimidating, hostile or offensive work environment. Any employee found to have acted in violation of this policy shall be subject to appropriate disciplinary action, which may include dismissal from employment.

This policy governs the conduct of all City employees, including; union, non-union, supervisory, non-supervisory, managerial, full-time, part-time and temporary employees; and members of City boards and commissions. This policy is also applicable to City elected officials.

In addition, employees are also expected to comply with ARTICLE 26 of this Manual ~~that addresses Harassment, which prohibits harassment and inappropriate conduct.~~

B. Definitions of Prohibited Behaviors

Violent behavior includes the use or threat of physical force, harassment, or intimidation, or abuse of power or authority when the impact is to control others by causing pain, fear or hurt.

Discriminatory behavior includes inappropriate remarks about or conduct related to an individual's race (including traits associated with race, including, but not limited to hair

texture and hair styles such as braids, locs, and twists), color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation (including gender identify and expression), status with regard to public assistance, or any other characteristic protected by state or federal law, including behavior specifically prohibited by ARTICLE 26 of these policies.

Offensive behavior may include, but is not limited to, such work-related actions as rudeness, exclusionary behavior, creating or displaying graphics depicting co-workers or customers inappropriately, angry outbursts, inappropriate joking, vulgar obscenities, name calling, disrespectful language, or the intentional filing of an unfounded complaint under this policy.

C. Expected Conduct of City Employees

1. City Employee Conduct in General

Employees of the City shall conduct themselves as professional representatives of the City at all times while on duty or on the employer's premises, and that employees will represent the City in such a manner as to reflect most favorably on the City. Conduct unbecoming a City employee shall include any conduct that tends to bring the City into disrepute or reflects discredit on the person as an employee of the City, or that which tends to impair the functioning of an employee, a department, or the City.

Your conduct as a City employee is an extremely important part of your job. You are a representative of our City, and as such, the way you perform your job and your neat and clean appearance reflects upon our entire organization. Your willingness to assist people, to courteously and accurately respond to their questions or complaints, and to refer them to the proper source when you are unable to solve their problems, are all important facets of your position with the City and impact upon each member of our staff.

2. Conduct in Dealing with the Public

a. Expected Public Interaction.

While representing the City, employees shall be professional and courteous to all members of the public and City customers. They shall be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion. They shall not engage in argumentative discussions, even in the face of extreme provocation. They shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender

[identity and expression](#)), disability, status with regard to public assistance, or any other characteristic protected by state or federal law, or other personal characteristics.

b. Interaction with an Abusive Customer.

In the event a member of the public or City customer becomes abusive on the phone or in person, employees should refrain from escalating the situation and if possible, employ tactics to defuse the situation, e.g. lower the voice, ask the person to sit down. If the situation doesn't improve, the employee can refer the person to a supervisor or request that a police officer be called to the scene. Employees are not required to continue telephone or in-person conversations in which the caller uses profanity or threats. In those situations, the employee should refer the call to a supervisor or inform the caller, as courteously as possible, that the employee is hanging up and will talk with the caller after the caller has calmed down.

c. Media Requests

~~All employees have a responsibility to help communicate accurate and timely information to the public in a professional manner.~~ Requests for [private](#) data must be directed to the designated ~~responsible~~[official](#) authority. Requests for information outside of the scope of an individual's job duties must be routed to the appropriate department head.

Any employee who identifies a mistake in [reporting a communication by the City](#) should bring the error to the City Administrator. Regardless of whether the communication is in the employee's official City role or in a personal capacity, employees must comply with all laws related to data privacy, trademark, copyright, software use, and other laws governing the employee's communication.

Except for routine events and basic information readily available to the public ([e.g., dates and locations of City Council meetings or City-sponsored events](#)), all requests for interviews or information from the media must be routed through the City Administrator. No employee is authorized to speak on behalf of the City without prior authorization from the City Administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites.

When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the City Administrator of the request.
2. If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the City Administrator. An appropriate response may be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the

appropriate person, who will get back to you as soon as he/she can.” Then ask the media representative’s name, questions, deadline, and contact information.

All news releases concerning City personnel will be the responsibility of the City Administrator, or designee.

When/if the City Administrator authorizes a staff person to communicate on behalf of the City in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the City. Account names on social media sites must be clearly connected to the City and approved by the City Administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: For example, the employee could state that, “The City finished street cleaning on 16 streets in the northwest corner of the City this past week” instead of “The City is doing a great job with street cleaning this year!” Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the City’s Facebook page: “My family visited Gregory Park this weekend and really enjoyed the new band shelter.” Employees who have been approved to use social media sites on behalf of the City should [review the City’s Social Media Policy, separate from this policy manual, and](#) seek assistance from the City Administrator on this topic.
- Notify the City Administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for City business. Employees should be aware that data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

d. Personal Communications and Use of Social Media

It is important for employees to remember that the personal communications of employees may reflect on the City, especially if employees are commenting on City business or commenting on issues that implicate their City employment. As City representatives, employees share in the responsibility of earning and preserving the public’s trust in the City. An employee’s own personal communications, such as on social media, can have a significant impact on the public’s belief that all city staff will carry out

city functions faithfully and impartially and without regard to factors such as race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook¹⁷, X, formerly known as Twitter¹⁷, blogs¹⁷, YouTube¹⁷ etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the City's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- While representing the City or working on behalf of the City, regardless of the location or event at which the work is taking place, all employees are expected to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the City. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the City, it would be best to identify yourself

and use a disclaimer such as, “These are my own opinions and do not represent those of the City of Brainerd.”

- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector is not permitted to use the city’s logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours for personal purposes even though he or she may have a key; a clerk, during work hours at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the City (e.g., (Brainerd Cop).

3. Conduct Between Employees

a. Expectations of Cooperation and Respect

Employees shall cooperate with and be courteous to co-workers at all levels. While everyone is entitled to their feelings, they are not entitled to act on their feelings inappropriately in the workplace. Employees shall control their tempers and refrain from behaviors that are hostile, offensive, intimidating, degrading, or exploitative. Inappropriate displays include, but are not limited to: slamming doors, pounding tables, kicking furniture, unwanted physical contact of any nature, making threats, berating or belittling others, speaking in raised voices, using coarse, violent or profane language or gestures, refusing to speak or respond when spoken to, and refusing to provide assistance when requested.

Employees shall treat each other with respect. They shall refrain from making remarks about or using nicknames for other employees that are disparaging or based on a personal characteristic; producing cartoons or other graphics displaying other employees in an unfavorable light; communicating threatening or disparaging remarks via any medium (voice, e-mail, notes, etc.); engaging in unwanted horseplay or practical jokes; failing to relay written, verbal or telephone messages; unwanted, unwarranted physical contact of any nature, including “roughhousing” such as punching in the arm, pinching, arm twisting, etc., and other, similar unwanted conduct.

a.b. Workplace Violence

The City is committed to creating and maintaining a workplace that is free from violence. Employees are strictly prohibited from engaging in any threatening or violent behavior while on City premises, while operating vehicles for work related reasons, while engaged in City business off premises, while at any City sponsored activity, or while otherwise representing the City.

Specific examples of conduct that may be considered threats or acts of violence under this policy include, but are not limited to, the following:

- Threatening physical or aggressive conduct directed toward another individual.
- Threatening an individual or his/ her family, friends, associates, or property with physical harm.
- The intentional destruction or threat of destruction of City property or another's property.
- Harassing or threatening phone calls, letters, or e-mails.
- Surveillance or stalking.
- Veiled threats of physical harm or similar intimidation.

Employees have a responsibility to help keep the municipal buildings safe and free of violence. Employees should inform their supervisor of any workplace situations that violate this policy, even if the threat is presented as “only a joke”. Supervisors are responsible for taking immediate steps to avoid workplace violence from occurring and subsequently report such information to City Administration. Any employee who engages in threatening behavior or acts of violence will be subject to disciplinary action up to and including termination.

For purposes of this policy, the term “workplace violence” does not include actions by law enforcement officers taken in the course of their employment with the City and consistent with applicable law and City policy regarding use of force and law enforcement activities.

D. Reporting Inappropriate Workplace Behavior

Any employee who feels he or she is being subjected to behaviors in violation of this Policy and any employee who witnesses or becomes aware of such conduct, should take the following steps:

1. If possible, politely but firmly tell the person who is behaving inappropriately that you are uncomfortable with or offended by the behavior and ask them to stop.
2. Document in writing for personal reference that describes the inappropriate behavior, the date the inappropriate behavior occurred, how it made you feel, what you did, how the offending party responded, and the names and titles of any witnesses.
3. If confronting the offending party is not practical or possible, or if the person refuses to discontinue the inappropriate behavior, the employee should, adhering to the chain of command, contact someone on the list below verbally or in writing:
 - a. The employee's immediate supervisor
 - b. The employee's department head
 - c. The Human Resource Director

d. The City Administrator

Reports of conduct by the Human Resource Director or the City Administrator may be made to the Mayor or the Personnel Committee of the City Council.

When making a report, the complaining party should be prepared to provide the following information:

1. The complainant's name, department and position title.
2. The name, department, and position title of the offending party, if known.
3. The specific facts of the allegedly inappropriate behavior, how long it has allegedly gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) that was supposedly taken against the employee who is filing the complaint.
4. Names of witnesses, if any, to the allegedly inappropriate behavior.
5. Whether the complainant has previously reported the allegedly inappropriate behavior and, if so, to whom.

E. Investigating Complaints of Inappropriate Conduct

The Human Resource Director, the City Administrator, or designee of the City Administrator or Human Resources Director, shall investigate complaints of inappropriate workplace conduct.

The determination of whether inappropriate workplace conduct has occurred will be made on a case-by-case basis. Disciplinary action will also be determined on a case-by-case basis in accordance with these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Employees who are found to have filed bad faith complaints of inappropriate workplace conduct may be subject to disciplinary action as described in the preceding paragraph.

F. Consequences of Engaging in Inappropriate Workplace Conduct

Employees who are found to engage in inappropriate workplace conduct may be subject to disciplinary action, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Supervisors are required to deal swiftly and vigorously with employees who treat others disrespectfully. Any supervisor who condones or allows inappropriate workplace conduct or fails or refuses to respond appropriately to complaints of inappropriate workplace conduct, may be subject to disciplinary action as described in the preceding paragraph, whether or not the supervisor actually engaged in inappropriate workplace conduct.

G. Retaliation for Complaints of Inappropriate Workplace Conduct

All employees are prohibited from retaliating or threatening to retaliate against anyone who complains of inappropriate workplace conduct. Any employee found to engage in retaliatory actions is subject to discipline, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

H. Relationship of Code of Conduct to Harassment Policy.

This policy supplements and does not replace the City's policies prohibiting discrimination, harassment in the workplace, and workplace violence.

Section 5.03 Gifts and Endorsements

No employee shall directly or indirectly solicit, receive, or agree to receive any compensation, "tip," gift, reward, gratuity, payment of expense, or promise of future employment or other future benefit from any source except the City, for any matter or proceeding connected with or related to the duties of the employee. Notwithstanding the above rule, employees may only accept gifts that [follow the State Statute guidelines for gifts are specifically allowed by State statute](#).

Employees and elected officials qualifying as "local officials" pursuant to M.S. 471.895 (as amended) must comply with the terms of that statute.

Section 5.04 Solicitations

The City does not allow outside solicitations to take place on City time or property. If you are asked to purchase goods, contribute funds, etc. while on City premises, please notify your supervisor immediately.

Section 5.05 Conflicts of Interest

No City employee shall engage in any act which is in conflict, or creates an appearance of impropriety or conflict, with the performance of official duties. When an employee believes the potential for a conflict of interest exists, it is the employee's responsibility to avoid the situation. Employees must notify their supervisor if a conflict of interest or perception of a conflict-of-interest situation exists or may exist. Employees who knowingly fail to avoid or disclose a potential, perceived or actual conflict of interest situation are subject to disciplinary action in addition to any criminal penalty that may be involved. An employee shall be deemed to have a conflict if the employee:

- A. Has any financial interest in any sale to the City of any goods or services;

- B. Engages in conduct that violates Section 5.03 (Gifts and Endorsements) of this ARTICLE;
- C. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private financial interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City; or
- D. Engages in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above.

An employee should not make a unilateral decision if there is any doubt about his/her private employment. The City Administrator or Human Resource Director should be consulted.

No employee shall, directly or indirectly, give or receive, or agree to give or receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City except as [authorized-provided](#) in [ARTICLE Section 5.05, subpart B](#) above.

- E. Discloses or uses without authorization from the City Administrator private, confidential, or other non-public information to further the employee's private interest, or accepts outside employment or involvement in a business activity that will require the employee to disclose or use such information.
- F. Has a financial interest or personal interest in any legislation or decision coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.

Section 5.06 Outside Employment

Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, be incompatible with their City employment, or impair their efficiency on the job. Individuals employed by the City of Brainerd must regard the City as their primary employment responsibility. All outside employment is to be reported to the employee's Department Head. If a potential conflict exists based on this policy or any other consideration, the Department Head will consult with the City Administrator and Finance Director. Any city employee accepting

employment in an outside position that is determined by the City Administrator to be in conflict with the employee's city job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

Outside work shall be regarded as secondary to regular City employment and shall not interfere with the availability of employees for regularly scheduled work, emergency, or on-call duties. The City's Workers Compensation insurance does not cover any individual injured in the course of outside employment.

Section 5.07 Incompatible Activities

As a City employee, you have a responsibility to uphold a high standard of honesty and integrity.

You may not engage in any activities which are inconsistent, incompatible or in conflict with the duties of your position. These incompatible activities include activities such as using your position or City resources for personal gain or advantage, accepting money or gifts for performing your duties as a City employee, or engaging in activities which impair your attendance or efficiency in the performance of your duties. If an employee has any question as to whether an activity is "incompatible" with his or her work for the City, the employee must ask his or her department head or, if the employee is a department head, the City Administrator for clarification.

Section 5.08 Use of City Vehicles, Facilities and Equipment

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for: unauthorized personal convenience, for profit, for private use, or as part of secondary employment, or any other use not in the interest of the City, except as provided by law. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

Employees are responsible for appropriate use of time, telephones, cellular telephones, computers, printers, paper, pens, stationery, facsimile machines, and pages. They are expected to adhere to the highest ethical standards when conducting City business and to follow these policies.

Management personnel are responsible for ensuring the appropriate use of all City property, including e-mail and internet access through training, supervising, coaching and taking disciplinary action, when necessary.

Employees who are required to take a City vehicle or equipment home due to the nature of their work for the City, shall do so only with the approval of the City Administrator and

in accordance with IRS reporting requirements, and applicable law. City vehicles shall be allowed to leave the City limits (or service area for Fire Department, Police, and BPU vehicles) only while on official City business.

City employees shall have no expectation of privacy in any property or equipment of the City, including, but not limited to, offices, cubicles, desks, files, vehicles, filing cabinets, voice mail, text messages on City paid cellular telephones, PDAs, computers, laptops, mass storage devices, e-mails, electronic media or devices of any kind, or any other type of equipment, property, or space provided by the City. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed, monitored, or searched by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion.

Staff members shall operate City vehicles in a careful and prudent manner and shall obey all state and federal laws and all City orders pertaining to such operation. Staff members shall set a proper example for others when operating City vehicles.

This policy applies to all employees who drive a vehicle on City business at least once per month, whether driving a City-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The City expects all employees who are required to drive as part of their job to drive safely and legally while on City business and to maintain a good driving record.

To the extent allowed by law, the HR Department will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their Department Head and the HR Director or their designee on the first workday after any temporary, pending or permanent action is taken on their license, and in any event before operating a City vehicle, and to keep their Department Head and HR Director informed of any changes thereafter. The City will determine appropriate action on a case-by-case basis.

The City Council approved the following policy regarding vehicle use. The intent of this policy is to ensure appropriate use of City vehicles and rolling stock by City employees while working on City business or as a representative of the City and to ensure a clear understanding thereof.

- A. To the extent feasible, City employees should use a City-owned vehicle when traveling for City work, including conferences, seminars, and meetings that the employee is attending in his or her role as a City employee.

- B. Conferences, schools, seminars and meetings: For purposes of this policy it is intended that training opportunities during the regular work shift within a 90-mile distance of the work location is considered an acceptable work-related activity in as much as the vehicle will be returned to the work site either during or shortly after the completion of the shift.
- C. Out-of-town and overnight conferences and schools: To the extent feasible, employees should use an available City-owned vehicle when traveling to overnight conferences, schools, and events. For travel which has a duration of more than one workday in length, the employee may utilize a non-fleet vehicle, if a City-owned vehicle is not available, the use for which will be compensated at the approved rate. Alternatively, upon prior approval of the City Administrator or designee, the employee can utilize an available vehicle if not needed by other staff during the applicable timeframe.
- D. Lunch hours and authorized breaks: For purposes of this policy when an employee is scheduled to work at a site other than their normal reporting location, and for Police Officers on duty, use of a City vehicle for travel within one mile of the City limits for the purpose of lunch and other authorized breaks shall not be considered personal use.
- E. Overnight use: It is the intent of this policy that all municipal vehicles will have returned to their designated work location by the end of the work shift unless prior authorization has been received from the employee's Department Head.
- F. Personal use: Personal use of City vehicles by City employees or elected officials is prohibited without the express written consent of the City Administrator.

Section 5.09 Possession and Use of Dangerous Weapons.

All employees, except sworn employees of the Police Department, are prohibited from carrying or possessing firearms and/or dangerous weapons other than firearms while acting in the course and scope of employment for the City. The possession or carrying of a firearm or dangerous weapon by employees other than sworn Police Officers is prohibited while working on City property or while working in any location on behalf of the City. This includes but is not limited to:

1. Driving on City ~~B~~business;
2. Riding as a passenger in a car or any other type of transit on City business;
3. Working on the City's property, including City Hall or any other City-owned work site;
4. Working off site on behalf of the City;
5. Performing emergency or on-call work after normal business hours and on weekends;
6. Working at private residences and at businesses on behalf of the City;

7. Attending training or conferences on behalf of the City.

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

For the purposes of this policy, “dangerous weapons” are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

[The following e](#)Exceptions to the dangerous weapons prohibition are as follows:

- [Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on City property, to the extent required by Minnesota Statutes, \[ARTICLE section\]\(#\) 624.714 \(as amended\), or other applicable law.](#)
- [Possession or use of a dangerous weapon necessary for the performance of duties by sworn Police Department employees.](#)

In addition, the City prohibits the discharge of firearms on City property, except as necessary for the performance of duties by sworn Police Department employees. Any employee in violation of this policy will be subject to disciplinary action, up to and including discharge.

This policy is administered and enforced by the Human Resources Department. Anyone with questions or concerns specific to this policy should contact the Human Resource Director.

ARTICLE 6. APPOINTMENTS AND PROMOTION

Section 6.01 Appointment Procedure

It is the intent of the City of Brainerd to recruit and select qualified candidates for available positions, as it deems necessary. The City is committed to recruitment and selection practices that are based on merit. The recruitment and selection processes will be conducted to ensure an open and competitive process. The City Administrator or a designee will oversee the hiring process for positions within the City. Human Resources staff are responsible for managing the recruitment and selection process including, but not limited to, obtaining authorization to hire, evaluating job descriptions, preparing vacancy announcements, scoring applications, conducting interviews, facilitating background checks, scheduling various assessments and medical examinations,

scheduling interviews, and making and withdrawing job offers. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to city employment.

The selection process will be a cooperative effort between the City Administrator, HR Director and the hiring supervisor, subject to final hiring approval of the City Council. Any, all, or none of the candidates may be interviewed, as determined by the City at its sole discretion.

When hiring for BPU Department Heads, the City Council will establish a Work Group to oversee the hiring process and up to two representatives from the BPU Commission Personnel Committee will be included in said Work Group.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

Every appointment to municipal service shall be recommended by the City Administrator or designee to the Personnel and Finance Committee and approved by the City Council. When required by law or by the City Administrator, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

For an existing position that becomes vacant and new positions approved as part of the budget, the City Administrator or designee shall inform the City Council of the vacancy to receive the City Council's authorization to begin recruitment and, when complete, to bring a hiring recommendation to the City Council for authorization to hire. Furthermore, when a position has already received approval from the City Council and an offer is made to a candidate who then declines, the Human Resource Director and the department head may use their judgment in reviewing the list of applicants or re-advertising for the same position.

The City Council may, from time to time, provide staff with hiring perimeters. To the extent that the City Council does so, and if said perimeters are followed, the Council may ratify the hiring of an individual after a conditional job offer has been given and the successful completion of pre-employment screening process has been completed.

Unless otherwise required by law or applicable collective bargaining agreement, in no event shall the hiring or continued employment of any person be considered a contractual relationship between the employee and the City. Further, unless otherwise provided, such relationship shall be defined as employment "at-will," which allows either party to dissolve the relationship at any time, for any legal reason or no reason at all. When

required by law or requested by the applicable Department Head, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

Section 6.02 Physical Examination and Background Checks

To the extent authorized or required by law, the City reserves the right to require applicants to complete a pre-employment physical examination by a physician designated by the City as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require employees to complete physical examinations related to their ability to complete the essential functions of their positions. The cost of any such examination shall be paid by the City.

To the extent required or authorized by law, the City reserves the right to require applicants to submit to a background check, including a criminal history background check, as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require internal applicants for promotional positions to submit to a background check, including a criminal history background check, as part of the recruitment and appointment process.

Section 6.03 Promotion from Within

To the extent practical, notice of all new job openings or vacancies shall be posted for at least three (3) working days in an appropriate place. Any employee desiring to apply for such job opening shall do so via the designated application process. If a person other than the Human Resource Director is designated in the job posting, the designated individual shall provide the application to the Human Resource Director within one (1) working day of receipt of the application. The internal recruitment process in no way prohibits the City from seeking and hiring qualified applicants through an external recruitment process. Except as required by the provisions of a collective bargaining agreement, the City reserves the right to recruit external candidates with or without conducting an internal recruitment process and has no obligation to select an internal candidate over an external candidate.

Section 6.04 Acting Department Head Policy

The following provisions shall be followed for appointment of Acting Department Heads:

- A. An employee who is designated to act as a Department Head shall be compensated at the rate of pay of the lowest step on the wage grid for the Department Head position that would represent an increase in pay for the employee of at least 3%.

- B. An employee may be appointed to the position of Acting Department Head upon recommendation of the City Administrator through the Personnel and Finance Committee and final approval of the City Council.
- C. Subject to the provisions of any applicable collective bargaining agreement, upon appointment of a Department Head, the City may return the employee who was Acting Department Head to the position and rate of pay he or she held prior to appointment as Acting Department Head, unless the Acting Department Head is appointed to the Department Head position.
- D. It is understood that the employee appointed as Acting Department Head is receiving additional compensation as per the terms of this policy and that no additional compensation will be made if or when the employee returns to his/her previous position regardless if this policy is amended at any point in the future.
- E. Nothing in this policy provides, or can be construed as providing, any employee with the right to be selected as Acting Department Head or Department Head. Nothing within this policy alters, or can be construed as altering, the "at-will" nature of employment of Acting Department Heads.

ARTICLE 7. SALARY ADMINISTRATION PLAN

Non-union supervisory employees, Municipal Utility Division Managers and Department Heads shall be compensated in accordance with wage resolutions adopted by the City Council.

New employees will generally start at Step 1. Promoted and/or reclassified employees will generally start at the lowest step that is at least 3% more than the employee received in his or her previous position with the City; further, wage step placement appeals will not be considered from promoted and/or reclassified employees for a higher step placement. The City retains the sole discretion to start an employee at a higher step depending on qualifications and needs of the City. Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.

Performance evaluations shall be based on job descriptions and result-oriented performance standards. Performance evaluations are intended to assist the employee in reaching maximum potential, enhance services provided by the City, and provide for periodic, formal review by the employee's supervisor and Department Head. The performance evaluation system shall be conducted in the following way:

- A. It shall be the responsibility of each Department Head to provide periodic written

evaluations of subordinate employees, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

- B. It shall be the responsibility of the City Administrator to provide periodic written evaluations of Department Heads on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible. The City Administrator will request feedback from all City-appointed boards that the Department Head is the primary staff liaison to while preparing for said review. The board feedback will be received via a form provided by the Human Resources Department.
- C. It shall be the responsibility of the City Council to provide periodic written evaluations of the City Administrator, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

The decision to provide a merit (step) increase shall be the determination, at the discretion of the Department Head, City Administrator, or City Council as applicable. Pay steps through step 6 are based on satisfactory performance.

In order to advance to Step 7 on an applicable wage grid approved by the City Council, an employee must be on Step 6 and obtain two "achieves expectations" and one "exceeds expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle beginning January 1, 2019. In order to advance to Step 8, an employee must be on Step 7 and obtain another "exceeds expectations" with two prior "achieves expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle.

Step increases for employees hired before August 1, 2022, will become effective on January 1 of each year following the employee's performance review. For employees hired, reclassified or promoted on or after August 1, 2022, any step increase will become effective on their position anniversary date. Progression through the pay steps will be accomplished by an annual review of employee performance, as described above.

Denial or delay of a step increment shall be subject to the grievance procedures described in these policies.

ARTICLE 8. PROBATIONARY PERIOD

Section 8.01 Duration and Purpose

Subject to the provisions of an applicable collective bargaining agreement and applicable law, all new, rehired, promoted, or reassigned employees shall serve a twelve (12) month probationary period upon assuming their new positions. This period shall be used to observe the employee's work habits and ability to perform the work that they are required to do. Department Heads shall file with the City Administrator a written summary of the probationary period and include a recommendation for continued employment of the employee.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City Administrator, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Section 8.02 Extension

An employee's probationary period may be extended for an additional period of time not to exceed six (6) months upon recommendation from the City Administrator or Department Head and at the sole discretion of the Human Resource Director.

Section 8.03 Termination

The City Council, upon recommendation of the Personnel and Finance Committee, may terminate with or without cause a probationary employee anytime during the probationary period.

Section 8.04 Completion

At the end of the probationary period, the Department Head will recommend that the City Administrator take one (1) of the following actions:

- 1) Extension of Probation;
- 2) Regular Employment; or
- 3) Termination.

If the recommendation is for termination, the City Administrator will take the recommendation to the Personnel and Finance Committee for consideration, before receiving final approval from the City Council.

An employee's completion of the probationary period does not guarantee future employment or create a "for cause" termination standard. All employees, including employees who have successfully completed a probationary period, are "at will" employees. Nothing in this personnel policy provides, is intended to provide, or should be construed as providing additional rights to employees who complete the probationary period.

Section 8.05 Vacation and Sick Leave

During a new or rehired employee's probationary period, vacation leave and sick leave shall be earned. Employees may use vacation leave after the first six months of their probationary period, subject to approval by the employee's supervisor. Sick leave may be taken during the probationary period not to exceed the sick leave time earned.

ARTICLE 9. HOURS OF WORK

Section 9.01 Work Schedule

Due to the necessity of providing service twenty-four hours per day, seven days per week, it is a reasonable condition of employment to require that employees work a regular schedule of hours as established by the City. Regular schedules shall not be construed as excluding shift rotation and emergency work schedules based on public necessity as determined by the City.

The following are descriptions of the work schedules for the types of employees utilized by the City of Brainerd.

- A. Subject to the terms of any applicable collective bargaining agreement, regular full-time and probationary full-time employees, included in the annual budget, normally have a work schedule of forty (40) hours per week, (five (5) days per week, eight (8) hours per day). The City reserves the right to set employees' schedules and hours of work as required to deliver City services.
- B. Regular part-time and probationary part-time employees have a work schedule that is less than forty (40) hours per week. Employees who work less than thirty (30) hours per week shall not be eligible for fringe benefits, except as required by law. Employees who work thirty (30) hours per week or more shall be eligible for the following fringe benefits on a pro-rata basis:

Holidays - As established in ARTICLE 15 of this manual.

Vacation - As established in ARTICLE 16 of this manual.

Sick Leave - As established in ARTICLE 17, Section 17.06 of this manual.

Employees who work thirty (30) hours per week or more shall be eligible to participate in the City's group health insurance, cafeteria plan and life and long-term disability ("LTD") insurance provided that the participation of such employees is allowed by the insurance carrier/plan eligibility rules.

The employer's contribution for health insurance and life and LTD insurance for eligible participating employees shall be determined on a pro-rata basis.

- C. Temporary or seasonal employees may work a flexible schedule for a period not exceeding 185 consecutive calendar days in each year of employment, or such other amount of time as determined by the City Administrator or designee. Full-time students under the age of 23 may also work a flexible schedule as allowed by law. Employees who are temporary, seasonal, and/or full-time students are not eligible for fringe benefits.

Employees should be made aware of their work schedules by a method suitable for the various city departments. Any changes in work schedules usually will be made known to employees affected ahead of time when the schedules take effect, except in the case of emergencies.

Section 9.02 Time Sheets

Each employee of the City shall complete an accurate time sheet following the proper procedure and timeline. Time sheets shall cover a two (2) week (fourteen (14) day) period except Paid on-call Firefighters whose timesheet will cover a full calendar month. Time sheets shall be completed by each employee and shall show all hours worked and the department the work is to be charged to. All overtime, if applicable, shall be approved by the Department Head. Reporting false information on a time sheet may be cause for disciplinary action up to and including immediate termination.

Section 9.03 Supervisory Employees

The City Administrator, Department Heads, Municipal Utility Division Managers and non-union supervisory employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards

Act may be allowed to maintain limited flexibility in their work schedule from the normal workday to the extent that job performance and service responsibilities of the City to the public remains satisfactory and at the approval of the employee's supervisor. This limited flexibility means that, if a Department Head, Municipal Utility Division Manager or non-union supervisor is absent for four or more hours in any normal workday, appropriate leave must be utilized to account for the absence.

The regular work week for all regular employees, including Department Heads, [Municipal Utility Division Managers](#) and non-union supervisors consists of five workdays. Even though Department Heads, [Municipal Utility Division Managers](#) and non-union supervisors may be required to work additional hours for night meetings, City functions and duties, etc., the employee must report to work all five days per week, even if the actual hours worked exceeds 40 hours prior to the fifth day. If an employee does not report to work for an entire day in a work week, the timesheet must show which type of appropriate leave is being taken (e.g., eight hours of vacation time).

If a Department Head, [Municipal Utility Division Manager](#) or non-union supervisor needs to work a full day on a weekend or holiday, he or she may make a request to the Department Head (for [Municipal Utility Division Managers](#) or non-union supervisors), City Administrator (for Department Heads), to have this workday switched to allow for a day off on another day. This request must be approved by the Department Head or City Administrator as appropriate, before the employee switches his or her work schedule.

Section 9.04 Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). An employee may be allowed to work from home with prior approval by their supervisor; allowed to use accrued vacation time or compensatory time, or with supervisor approval; or may modify their work schedule if allowed without incurring overtime per the applicable union contract or make other reasonable schedule adjustments.

Sworn police officers, firefighters, utility and public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the City Administrator.

ARTICLE 10. OVERTIME HOURS

Section 10.01 General

Overtime pay for employees will be in conformance with State and federal law, including Minnesota Statutes, [ARTICLE section 177.25](#) (as amended) and the Federal Fair Labor Standards Act, 29 United States Code, [ARTICLE section 201](#) et seq., ("FLSA") as amended, and all applicable State and federal rules and regulations implementing [ARTICLE section 177.25](#) and/or the FLSA.

- A. For purposes of computing overtime for employees, other than BPU employees, work weeks shall begin at 12:00 a.m. on Sunday. For purposes of computing overtime for BPU employees, work weeks shall begin at 12:00 a.m. on Monday.
- B. Hours worked by non-exempt, non-union employees in excess of forty (40) per week shall be compensated at one and one-half (1 ½) times their hourly wage rate unless a different rate is established by an employment contract.
- C. Holiday hours actually worked are calculated as time worked in the computation of overtime pay.
- D. For the purposes of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- E. No employee may work overtime without the prior approval of his or her Department Head, or designee.
- F. Exempt, non-union employees shall not be eligible for overtime compensation or compensatory time, except as provided in Section [10.044](#) of this Policy.

Section 10.02 Payment

Department Heads are responsible to schedule the work in their departments to minimize overtime. Overtime shall be inputted in 1/4 hour (fifteen minute) increments.

Section 10.03 Compensatory Time

Upon request, non-exempt, non-union employees will be allowed to earn compensatory time in lieu of receiving overtime compensation. In no event, shall accrued compensatory time off exceed the limitations provided in the FLSA. Once an employee has reached maximum accrual, compensation for additional hours must be paid in cash, rather than accrued as compensatory time off.

Compensatory time shall be determined at the rate of one and one-half (1½) hours off for every hour of overtime worked, or at a higher rate, if the employee receives a higher rate of pay for the overtime hour(s) in question in accordance with the terms of a collective bargaining agreement or other employment contract. Compensatory time off will be granted in not less than one-quarter hour units.

The City reserves the right to pay out any compensatory time off in excess of 80 hours, as it deems necessary. Accrued compensatory time off may be used with prior approval from the employee's Department Head, which shall be granted unless use of compensatory time off would unduly disrupt the operations of the City.

Upon separation from the City's employment, employees shall be paid for their accrued, but unused compensatory time off in accordance with the FLSA and other applicable law.

Section 10.04 Overtime for Exempt Employees

Notwithstanding the above, exempt employees may receive overtime compensation to the extent provided in an intergovernmental agreement or other contract between the City and another entity, if the contract requires the other entity to pay the cost of overtime hours.

ARTICLE 11. PERSONNEL/PAYROLL

Section 11.01 Personnel Records

An employee must notify the Department Head and the Human Resource Director in case of a change in address, telephone number, marital status, or number of dependents. If at any time an employee's address or telephone number is changed and the change is not reported, it may be difficult or impossible to complete delivery of messages, notices, or other information which should be received. Incomplete information creates problems with payroll deductions and fringe benefits, such as medical coverage. Accordingly, the failure to provide such information may impact the City's ability to provide pay and/or benefits to City employees.

Section 11.02 PERA (NOTE: See PERA's Website: www.mnpera.org to verify contribution rates)

Almost all city employees in the State of Minnesota are covered by a public pension system known as the PERA. Both the City and employees contribute to PERA. For specific information regarding annual contribution rates, contact the Human Resource Director. Vesting time varies depending on your membership eligibility date and the pension is portable among public employers throughout the state. Being vested means you qualify for benefits at the minimum allowable age.

In normal situations, employees and employers both contribute a percentage of the employee's gross salary to PERA. However, Minnesota law provides that some income received by an employee are not eligible for PERA contributions. Employees should contact the Human Resource Director with specific questions regarding PERA contributions.

Section 11.03 FICA

All full-time, part-time, temporary and/or seasonal employees are mandatory members of

Federal Insurance Contribution Act (commonly known as Social Security). The City is required to deduct certain amounts from such employees' gross salary. Certain employees may be exempt from this deduction. Employee should contact the Human Resource Director with specific questions regarding FICA deductions.

Section 11.04 Medicare

All full-time, part-time, temporary and/or seasonal employees have a mandatory deduction for Medicare tax taken from their paychecks. Employee should contact the Human Resource Director with specific questions regarding Medicare deductions.

Section 11.05 MN Deferred Compensation

The City is a member of the Minnesota Deferred Compensation Plan. An employee may, at their option, defer any part of income, to a maximum amount set by law, of gross salary. The City does not contribute any monetary amount to the MN Deferred Compensation Plan unless required by the provision of collective bargaining agreement.

ARTICLE 12. SEPARATION FROM EMPLOYMENT

Section 12.01 General Statement

Separation from employment is an inevitable part of personnel activity within any organization, and there are many reasons for separation. The reasons for separation include: (1) resignation; (2) discharge (in accordance with ARTICLE 28 of these policies); (3) layoff; and (4) retirement (in accordance with ARTICLE 13 of these policies).

An employee leaving the City, for any reason, must turn in his/her identification badge and card, tools, shop coats, keys, books, and other City equipment no later than the last day of work. The employee is expected to go through an exit interview with the Human Resource Director on his/her last day of work. This interview is important for both the City and the employee. Through this interview, information may be provided which can lead to the causes of turnover, absenteeism, poor communication, etc. Oftentimes problems are discovered which appeared non-existent previously. It can be an effective means for gaining insight into potential personnel problems.

Section 12.02 Resignation

As at-will employees, all City employees may resign at any time, for any reason. In order to be considered "in good standing" at the time of resignation, an employee must file with employee's department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Department Heads, Municipal Utility Division Managers and non-union supervisors wishing to resign "in good standing" should give the

City as much advance notice as possible, but must provide at least 30 days' notice. Failure to comply with this 14-day or 30-day notice procedure may be considered cause for denying the employee future employment by the City and denying termination benefits. Unauthorized absence from work for a period of three working days may be considered by the City Administrator as a resignation "not in good standing" and without benefits.

Section 12.03 Layoffs

After at least two weeks' notice to the employee, the City Administrator may lay off any employee when such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization. If it should become necessary to reduce the City work force, the City may give consideration to the employees' on-the-job performance, abilities, job knowledge and the potential for other jobs within the City.

Section 12.04 Final Pay Following Termination of Employment

Subject to applicable law, employees who terminate employment with the City shall receive their final pay settlement a maximum of two weeks from the date of resignation, coinciding with the next normal payday.

ARTICLE 13. RETIREMENT AND SEVERANCE PAY

Section 13.01 Procedure

Regular employees who retire voluntarily in good standing, as defined in [ARTICLE 129 as defined above](#), after giving at least two (2) ~~weeks notice~~weeks' notice to the City and are eligible to immediately begin receiving monthly retirement benefits under the provisions of PERA as of the date of his or her retirement shall be granted severance pay based on the following conditions and rates:

Section 13.02 Conditions

- A. Retirement - voluntary and in good standing, as defined in ARTICLE 12.
- B. Voluntary retirement or termination of employment in good standing, as defined in ARTICLE 123, due to health reasons, service-connected injury, or illness.

Section 13.03 Rates

All regular employees, regardless of the date of hire, shall be entitled to 100 percent of their unused sick leave as severance pay, with a maximum of nine hundred sixty (960) hours, upon retirement in good standing, as defined in ARTICLE 12, or if they become disabled and must terminate their employment, with written proof by a physician. In the

event of death, severance pay shall be paid to the beneficiary. Pay for unused sick leave shall be based on existing annual wage as described in Exhibit C or applicable union contract.

ARTICLE 14. MEAL AND COFFEE BREAKS

All hourly employees shall receive one (1) fifteen (15) minute rest period during each four (4) consecutive hours of work. Rest periods are part of the paid work shift. An employee shall not be compensated additional wages or time off for not taking a scheduled rest period. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or meal time, including any standard meal time designated by a specific Department—or accrue compensatory time—by saving these breaks. Breaks should be scheduled so as to not interfere with work requirements.

In general, City employees working a scheduled full-time shift are entitled to a one (1) hour uncompensated meal period. Meal periods shall be scheduled by the department head or supervisor. Employees will not be permitted to adjust work start time or accrue compensatory time by skipping or shortening meal breaks.

ARTICLE 15. HOLIDAYS

The following holidays, or days observed as such, shall be considered paid holidays for all regular employees:

New Year's Day
Martin Luther King, Jr. Day
Presidents' Day
Memorial Day
Veterans' Day
[Juneteenth](#)
Independence Day
Labor Day
Thanksgiving Day
Friday after Thanksgiving Day
Christmas Day
[2 "Floating" holidays](#)
[One "Floating" holiday](#)

When an official holiday recognized in this policy falls on a Saturday, the preceding Friday shall be declared a holiday for employees whose normal work schedule is Monday through Friday. When an official holiday recognized in this policy falls on a Sunday, the following Monday shall be declared a holiday for employees whose normal work schedule is Monday through Friday.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Union employees shall be compensated for holiday time according to the terms and conditions of their collective bargaining agreement.

Requests for floating holidays shall require three (3) days' written notice to the Department Head. Such requirement may be waived when absence of the employee will not unduly affect the functioning of the department.

Employees will be accredited their floating holidays on January 1st of each year and may use ~~it them~~ at any time during the year.

~~New employees whose first working day is between January 1st and June 30th, inclusively, shall receive two (2) floating holidays and new employees whose first working day is between July 1st and December 31st, inclusively, shall receive one (1) floating holiday.~~

~~All~~ Floating holidays must be taken in one (1) day (or eight (8) hour) increments. Floating holidays are not carried over year-to-year and must be used in the calendar year that they are received. Floating holidays not used by December 31 of the calendar year they were received are forfeited.

ARTICLE 16. REGULAR VACATION

Section 16.01 General Vacation Rules

A. When Taken

Vacation leave may be taken after written approval by the Department Head or designee. Vacation leave will be granted in not less than one-quarter hour units. Probationary employees' use of vacation leave is subject to ARTICLE 8 of these policies.

B. Length of Service

Length of service for the purpose of determining vacation accrual is calculated from the date of hire with the City. If an employee returns to work at the City after a break in service, the employee's length of service will be calculated from the date of rehire.

C. Scheduling Vacation

Department Heads are responsible for approving the scheduling of vacation leaves for employees under their supervision, and approval is not automatic.

1. Consideration shall be given to seasonal demands and departmental staffing needs before granting any vacation leave requests.
2. Subject to the needs of the Department, preference in scheduling shall be based on the order in which vacation requests are received and/or seniority of employees.

D. Monetary Consideration in Lieu of Vacation

Vacation pay shall be reflected on the paycheck issued for the pay period in which the vacation is taken. No vacation shall be paid in lieu of taking time off, except as authorized under the City's Cafeteria Plan.

E. Accrual of Vacation

Employees may accumulate vacation time equal to a maximum of 240 hours. Vacation accrual will cease if an employee is off of the City's payroll system for any reason whatsoever, except as required by law.

F. Vacation Payout

Employees who leave the employment of the City in good standing, as defined in ARTICLE 12 of these policies, by retirement or resignation will receive pay for 100 percent of unused accrued vacation. An employee shall not be considered to be "in good standing" if the employee resigns or retires following allegations of misconduct [pending investigation](#), as determined by the City Council in its sole discretion.

All full-time employees, except the City Administrator, ~~and~~ Department Heads and Municipal Utility Division Managers, shall earn vacation at the rate of: 6.67 hours per full month worked during the employee's first five years of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

5 years of service - 10.00 hours per month
10 years of service - 10.67 hours per month
11 years of service - 11.33 hours per month
12 years of service - 12.00 hours per month
13 years of service - 12.67 hours per month
14 years of service - 13.33 hours per month
15 years of service - 14.00 hours per month
16 years of service - 14.67 hours per month
17 years of service - 15.33 hours per month
18 years of service - 16.00 hours per month
19 years of service - 16.67 hours per month
20 years of service - 17.33 hours per month
21 years of service - 18.00 hours per month
22 years of service - 18.67 hours per month
23 years of service - 19.33 hours per month
24 years of service - 20.00 hours per month

City Administrator, ~~and~~ Department Heads ~~and~~ Municipal Utility Division Managers shall earn vacation at the rate of:

Commented [KS3]: This change was approved by the City Council on 8/21/23.

Ten (10) hours per full month worked during the first year of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

1 year of service ~~=~~ 10.67 hours per month
2 years of service ~~=~~ 11.33 hours per month
3 years of service ~~=~~ 12.00 hours per month
4 years of service ~~=~~ 12.67 hours per month
5 years of service ~~=~~ 13.33 hours per month
6 years of service ~~=~~ 14.00 hours per month
7 years of service ~~=~~ 14.67 hours per month
8 years of service ~~=~~ 15.33 hours per month
9 years of service ~~=~~ 16.00 hours per month
10 years of service ~~=~~ 16.67 hours per month
11 years of service ~~=~~ 17.33 hours per month
12 years of service ~~=~~ 18.00 hours per month
13 years of service ~~=~~ 18.67 hours per month
14 years of service ~~=~~ 19.33 hours per month
15 years of service ~~=~~ 20.00 hours per month

ARTICLE 17. EMPLOYEE LEAVES

Section 17.01 Jury Duty

Any employee who is required to serve as a juror shall be granted a leave of absence with pay while serving in such capacity. Employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. An employee cannot receive more than the employee's normal take-home pay as a result of any employer pay supplemented to Jury Duty pay. Jury duty pay must be remitted to the City. When employees are excused from jury duty during their regular working hours, they are expected to return to work if practicable. If a holiday occurs during jury duty, the employee shall be paid for the holiday.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Insurance benefits will remain in effect for the full term of jury duty leave. Employees must continue to make employee contributions for any insurance that requires payment on their part.

Vacation time and sick time shall continue to accrue during the period of leave. Benefits will continue to accrue as though the employee were actively at work.

Section 17.02 Military Leave

Employees shall be entitled to leave without pay for military service, including training in the National Guard, consistent with the Uniformed Services Employment and Re-employment Rights Act of 1994 ("USERRA") (as amended) and Minnesota law, including, but not limited to, Minnesota Statutes, chapter 192 (as amended).

Section 17.03 Leave for Service in Organizations

The City Council with the recommendation of the City Administrator and Personnel and Finance Committee, may grant a leave of absence without pay for reasonable periods not to exceed one (1) year to any regular employee for the purpose of serving in an elected or appointed position, other than as a paid employee, in a professional organization or a governmental commission or committee, provided such leave will not reduce the quality or level of service to the public.

No vacation leave, sick leave, holiday leave or compensatory time off benefits shall be used or accrued during a leave of absence and the City will not contribute to insurance premiums.

Section 17.04 Parental Leave

Parenting Leave, as provided for in Minnesota Statutes, ~~including ARTICLE~~[Section 181.941](#), as amended, grants qualifying employees unpaid leave of up to twelve (12) weeks for: (1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or a related health condition. Parental Leave is considered to be taken simultaneously with FMLA leave. If leave is taken due to the birth or adoption of a child, the leave must begin within twelve (12) months of the birth or adoption, unless the child remains in the hospital after the mother has been discharged, in which case the leave must begin within twelve (12) months after the child leaves the hospital.

~~The City will inform employees of their parental leave rights at the time of hire and when an employee makes an inquiry about or requests parental leave.~~

~~The City shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting parental leave rights or remedies.~~

Section 17.05 Funeral Leave

All regular full-time employees shall be permitted paid funeral leave not to exceed 24 hours, if necessary, for the death of an immediate family member (employee's spouse, child, step-child, father, mother, brother, sister, father-in-law, mother-in-law) and one (1) working day, if necessary, for the death of an employee's grandparent. Funeral leave for other relatives may be granted at the discretion of the Human Resource Director. Up to twenty-four (24) additional hours of sick leave may be used as additional funeral leave at the discretion of the City Administrator. For purposes of this policy, the term "working day," means a regularly scheduled shift, excluding any time that an employee would be considered "on call" unless the employee actually would have been called to perform duties during that period.

Section 17.06 Sick Leave

~~All full-time eligible part-time and temporary City employees shall earn sick leave at the rate of one (1) hour per thirty (30) hours worked as required by the Earned Sick and Safe Time (ESST) Law and City Policy. Except to the extent provided in an applicable collective bargaining agreement, full-time employees shall also earn ESST leave at least~~

~~the rate of one (1) hour per thirty (30) hours paid excluding the following pay types: Vacation Sale; Comp Time Payouts; Comp Time Earned (our payroll system can only recognize when comp time is taken/paid); and Vacation, Sick and Comp Time severance payouts. In addition, full-time employees will earn a combination of Sick Leave and ESST to equal -day (8 hours) of leave per month-of employment.~~ Sick leave will be granted in not less than one-quarter hour units. Sick leave accumulation shall be a maximum of 120 days (960) hours.

An employee may use sick leave when the employee is unable to attend work or perform work duties due to illness, injury, the necessity for medical, dental, or chiropractic care, childbirth, or exposure to contagious disease where such exposure may endanger the health of others with whom the employee would come in contact during the course of performing work duties. Employees may also use their accrued sick leave for ~~the~~ following:

- ~~A. Illness or injury of the employee's spouse, child, adult child, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. Sick leave to care for an injury or illness of the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent is limited to 160 hours (20 days) in any given twelve (12) month period;~~
- ~~B. "Safety leave," as provided in Minnesota Statutes, ARTICLE 181.9413(b), as amended. Employees may use up to 160 hours (20 days of an eight-hour shift) of sick leave for "safety leave" during any given twelve (12) month period.~~

~~Any-any other purpose for which the City is required to allow an employee to use sick leave by State or federal law, including, but not limited to, Minnesota Statutes, ARTICLE 181.9413, as amended.~~

When requesting sick leave for a scheduled or foreseeable absence, employees must notify the supervisor as soon as the employee is aware of the need to utilize sick leave.

To be eligible for sick leave with pay, an employee shall:

- A. Report as soon as possible to the employee's immediate supervisor as described above. If the need for sick is not foreseeable, the employee must notify his/her supervisor as soon as the employee becomes aware of the need for leave. The employee shall identify if the absence is due to the employee's illness or the employee's immediate family, as listed above;

- B. Keep the employee's immediate supervisor informed of such employee's need for continued absence; and
- C. To the extent allowable by law, for any absence that exceeds three days, upon request by the City Administrator, submit a medical certificate before the employee will be allowed to return to work.

Except as may be required by law, sSick leave accrual will cease if an employee is off of the City's payroll system for any reason whatsoever.

To the extent allowable by law, the City reserves the right to require any employee returning from sick leave to provide a certificate stating that he or she is able to perform the essential functions of his or her position, with or without reasonable accommodation.

In case of disability caused by sickness or injury and covered by Workers Compensation, the City will pay to the employee only such sums, as together with Workers Compensation payments, will equal their base pay but never for a longer period than their accumulated sick leave and vacation leave. The time deducted from the employee's accumulated sick leave, until exhausted and then vacation, until exhausted, shall be the difference between the employee's normal gross pay and the payment received by the employee for workers compensation. An employee cannot receive more than the employee's normal take-home pay as a result of any workers compensation payment.

In such case, to the extent allowable by law, once sick leave is exhausted, the time deducted from accumulated vacation leave shall be in the same amount as the proportion of wages paid by the City bears to the entire base pay of the employee. No sick leave or vacation leave will be paid to employees while actually working for others.

Section 17.07 Earned Sick and Safe Leave

NOTE: The policy will be inserted after Council approval.

Please refer to Exhibit D to view the required ESST notice.

Section 17.07-08Extended Medical Leave

When medically necessary, and upon receipt of a medical certificate from an employee's treating physician, the City Administrator may approve a request for a medical leave extension of up to 90 days due to the employee's serious medical condition or to care for a spouse, parent or child who has suffered a serious medical condition.

Commented [CRS4]: In addition to the policy, the law requires the City to include the notice language drafted by the DOL in the policy handbook. That notice can be attached as an exhibit or tucked into the policy manual in this section. It just needs to be included somewhere in the handbook.

Before using unpaid leave under this ARTICLE, the employee must use all paid leave. Leave granted pursuant to this Section may run concurrently with leave under the Family and Medical Leave Act ("FMLA").

Employees will not earn or accumulate benefits or other compensation while on unpaid leave, except as required by law. A medical certificate attesting to the employee's fitness for duty shall be required prior to any employee returning to work from medical leave. Also, the City may require that the employee submit to an examination by a medical provider selected by the City to determine whether the employee is able to perform the essential functions of his or her job, with or without reasonable accommodation.

The Human Resource Director may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.

Section 17.~~08-09~~Personal Leave

Upon written request of an employee, the City Council may grant an employee a leave of absence without pay for a period of up to 90 consecutive calendar days, at its sole discretion.

Employees will not earn or accumulate leave, benefits, or other compensation while on unpaid leave except as required by law.

Section 17.~~1009~~School Leave

To the extent required by law, employees may take up to a total of sixteen (16) hours per twelve (12) month period of unpaid leave to attend school conferences and school-related activities related to the employee's child, provided the conferences or other school-related activities cannot be scheduled during non-work hours. Employees taking leave for this purpose may, but are not required to, substitute vacation or compensatory time for any part of this unpaid leave.

Section 17.~~10-11~~Family & Medical Leave

Eligible employees, as determined by the Human Resource Director or designee, may be entitled to take unpaid leave pursuant to the Family and Medical Leave Act ("FMLA") for the purposes described in 29 U.S.C. § 2612 (as amended). All such leave, including the responsibilities of the City and its employees related to such leave, is subject to the

conditions prescribed in the FMLA and the Department of Labor's regulations implementing the FMLA.

A. Restrictions on FMLA Leave

For additional information regarding FMLA leave, including the circumstances in which such leave may be taken, employees should consult the posted notices. In addition, as permitted by the FMLA, the City places the following restrictions on eligible employees' use of FMLA leave:

1. The City has designated a "rolling" twelve (12) month period for purposes of determining employees' entitlement to FMLA leave. The "rolling" twelve (12) month period is measured backward from the date the employee uses any FMLA leave.
2. Spouses employed by the City are permitted to take a combined total of twelve (12) work weeks of FMLA leave during a single twelve (12) month period if the FMLA is: (1) due to the birth of a son or daughter of the employees; (2) due to the placement of a son or daughter with the employees for adoption or foster care; or (3) in order to care for a parent of the eligible employee.
3. Employees who request leave under this policy based on: (1) their own serious health condition; (2) to care for a parent, spouse, or child's serious health condition; or (3) military caregiver leave, are required to submit a completed medical certification that complies with the requirements of the FMLA. Medical certification forms are available from Human Resources. The City reserves the right to request a second opinion, at the expense of the City, to the extent permitted by the FMLA. If the results of the employee's certification differs from the results of the City's certification, the City may obtain a third opinion at the City's expense. The City also reserves the right to require periodic recertification, to the extent allowed by the FMLA and to contact the certifying medical provider to authenticate or clarify the medical certification in lieu of seeking a second opinion. Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency, if leave is requested for that purpose.
4. Except in emergency situations, the employee is required to provide written notice of the need to take leave to his or her immediate Supervisor not less than thirty (30) days before the date the leave is scheduled to begin. If the leave is to begin in less than thirty (30) days, the employee shall provide such written notice as soon as practicable.

5. Employees are required to use all accrued sick leave, vacation leave, and any other accrued paid leave concurrently with leave provided under the FMLA. Employees with both accrued sick and vacation leave are required to use sick leave and compensatory time, if any, before using accrued vacation leave. The combined paid and unpaid leave cannot exceed the applicable twelve (12) week or twenty-six (26) week maximum FMLA leave time. FMLA leave may run concurrently with a worker's compensation absence if the on-the-job injury or illness also qualifies as a serious health condition under the FMLA.
6. Subject to the terms, conditions, and limitations of applicable plans, eligible employees are entitled under the FMLA to the same health insurance benefits provided by the City while on FMLA leave to the same extent as if the employee were not on FMLA leave. Employees who contribute toward their health care coverage must continue to make that contribution while on leave, either through payroll deduction (if using paid leave) or by personal check (if using unpaid leave). If the employee fails to return to work after taking family or medical leave, the City may recover the premiums paid by the City for group health and life insurance unless the serious health condition of the spouse, child, parent or employee continues or for other circumstances beyond the control of the employee.
7. Vacation, sick, and holiday leave will not be earned during a period of unpaid FMLA leave. FMLA leave, whether paid or unpaid, will not constitute a break in service for purposes of computing years of service.
8. The City requires a medical certificate attesting to the employee's fitness for duty prior to the employee being allowed to return to work. The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the essential functions of the job. The Human Resource Director or designee may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.
9. Records of FMLA leave will be kept along with normal personnel records except that any medical record(s) will be maintained separately in accordance with applicable laws.

B. Effect on Pension:

Employees should contact the MN Public Employees Retirement Association ("PERA") for information about how FMLA leave may affect their retirement benefits.

C. Training:

Employees who have missed training sessions while on FMLA leave will be given a reasonable opportunity to make them up upon returning to work.

Section 17.11-12Department Head Absenteeism Notification

Except in the event of an emergency that prevents such notice, Department Heads shall notify the City Administrator prior to any absence from the office.

Section 17.12-13Catastrophic Leave Bank

POLICY STATEMENT

The City of Brainerd recognizes that occasions arise when employees may have exhausted their vacation leave, sick leave and compensatory time, due to a non-work related injury or prolonged illness that has not yet qualified for long-term disability insurance benefits. It is the intent of this policy to provide an opportunity for City employees to voluntarily donate vacation leave hours to an emergency medical leave bank for use by other City employees who demonstrate a catastrophic medical emergency. The program is voluntary in nature and does not guarantee any resulting benefit to any employee in need nor does it require participation of any employee. This policy applies to employees of bargaining units upon agreement of their exclusive representative.

Eligibility

All non-probationary City employees, including members of collective bargaining units whose exclusive representatives have agreed to this policy, are eligible to participate in this Catastrophic Medical Leave Sharing Bank ("CMLSB"). Donation to the bank is entirely voluntary.

Definitions

- A. "Catastrophic Medical Emergency" is a major life-threatening disease or illness or non-work related major injury involving a prolonged absence from work. Per the dictionary, a catastrophe is a momentous tragic event ranging from extreme misfortune to utter overthrow or ruin.

Examples may include: heart attack, stroke, organ transplant, cancer or major non-work-related injury.

The medical emergency must result in the incapacitation of the employee, spouse, or child/stepchild for a minimum of 80 consecutive work hours

(subsequent intermittent absences involving the same illness or condition shall also qualify) which requires the employee to take time off from work and creates a financial hardship because all of the employee's paid leave has been exhausted.

"Catastrophic medical emergency" is specifically not defined as all "serious health conditions" as defined under the FMLA.

- B. "Verification of catastrophic illness or injury" shall consist of a physician's statement verifying that:
 - 1. The employee is suffering from a major life-threatening disease, illness or non-work related major injury requiring a prolonged absence from work; or
 - 2. That the employee must be present to care for the employee's spouse, child or stepchild who is suffering from a major life-threatening disease or illness or major injury; and
 - 3. A brief description of the nature of the illness or injury and the anticipated duration of the incapacity.
 - 4. The Verification of catastrophic illness or injury shall be in addition to the FMLA certification of health care provider.
- C. "Donor" is an employee who donates vacation leave to the Emergency Medical Leave Sharing Bank.
- D. "Applicant" or "Recipient" is a non-probationary City employee who has applied for or received leave from the CMLSB.
- E. "Committee" as referenced in this policy shall consist of the City Administrator, Human Resource Director, and the Chair of the Personnel and Finance Committee.

Catastrophic Medical Leave Sharing Bank BENEFITS AND LIMITATIONS

- A. The applicant must have exhausted all of the employee's own accrued vacation, sick leave, and compensatory time in order to receive any Catastrophic Medical Leave ("CML").
- B. The applicant may apply for CML while still in paid status, but no sooner than 80 hours before the exhaustion of all of the applicant's paid leave or CML.
- C. An applicant may be eligible to receive up to a maximum of 160 hours of CML per request, which shall be placed in the recipient's sick leave bank as needed per pay period in increments of no more than 80 hours at a time.

Additional requests for CML may be submitted upon the anticipated exhaustion of the initial hours and medical verification of continued need, but the total CML granted to one recipient in relation to one medical emergency shall not exceed 480 hours. Part-time employees shall be eligible to receive CML on a pro-rata basis.

- D. Recipients of CML must use the leave only for the Catastrophic Medical Emergency. Any CML which is not used for the medical emergency shall be returned to the bank and cannot be retained by the recipient.
- E. An applicant shall be required to apply for FMLA leave in conjunction with the application for CML. Catastrophic Medical Leave time will run concurrently with any applicable FMLA leave.
- F. The recipient shall be in a paid status when using CML for the purpose of receiving benefits. When a pay period includes a holiday, a participant using CML shall receive holiday pay provided they are in a pay status the last regular shift prior to, and the first regular shift following the holiday.
- G. A recipient's CML pay will continue to be taxed in accordance with state and federal law, and all authorized deductions will continue to be deducted from the participant's paycheck, provided sufficient wages are available.
- H. All time donated to the pool shall be converted to a dollar amount based upon the donor's hourly rate of pay. All CML shall be used at the recipient's rate of pay.
- I. Leave from the CML may not be used for illness or disability which qualifies the participant for Worker's Compensation, long-term disability, PERA disability or Social Security benefits.
- J. An applicant shall be required to apply for long-term disability and PERA disability, as applicable, for the employee's own medical condition which results in the employee's absence from work for more than 90 calendar days, whether before or after the employee has exhausted his/her own paid leave. The recipient applicant shall provide verification of such application.
- K. Leave donated to the CML Bank shall remain in the bank from year to year and shall be available to eligible employees. Donation of leave to the CML Bank is irrevocable.

Application Process

- A. Applicants shall be required to complete a form setting forth their request for CML, the reason, number of hours requested and the anticipated duration of the medical emergency. A new request form shall accompany each subsequent request. The CML Request form will be turned into the

Human Resource Director prior to the start of the leave if possible. Requests will be reviewed by the Committee.

- B. The Applicant shall sign a waiver of liability in connection with the CML request and any subsequent request. The applicant shall provide a "verification of catastrophic illness or injury" with the request form or within (10) calendar days of the request. In the event that the Verification is not submitted in a timely manner, the CML request may be considered by the Committee but no leave will be disbursed to the applicant until the verification is received and reviewed by the committee.
- C. Applicants who are denied CML or whose withdrawal is not renewed or is terminated may, within fifteen (15) calendar days of denial, appeal the denial, non-renewal or termination by providing new or additional information to the Committee and completing a supplemental application and waiver. The final decision will be reported to the applicant, in writing, within ten (10) working days of the decision. This decision of the Committee is final. Such final authority is not subject to the grievance procedure or litigation and the applicant shall specifically waive any rights to review by any of these options.
- D. All requests for CML, verifications of catastrophic illness or injury and other documentation related to an applicant's medical condition or that of the applicant's family member shall be kept confidential and shall only be disclosed as necessary to administer request for withdrawal.
- E. If the CML bank does not have sufficient hours to fund a withdrawal request, the City is under no obligation to pay the applicant any funds. If a withdrawal request is denied in whole or in part because of insufficient dollars to fund the request, the applicant shall be notified in writing of the reason for the denial.

DONATION PROCESS

- A. A regular full or part time employee may donate vacation leave to the Catastrophic Medical Leave Sharing Bank twice annually, which shall occur with the first pay period in December or June. In the event that the CML Bank becomes depleted, the City Council may, in its sole discretion, authorize a third open window period for donation to the Bank.
- B. Donors are required to have a minimum of 80 hours of vacation leave available to them in their accrued vacation leave bank after a donation is made.
- C. Donation to the CML bank is irrevocable.

TENNESSEN WARNING

Information provided pursuant to the Catastrophic Leave Donation Policy is classified as personnel data pursuant to Minnesota Statutes, [Section 13.43](#), as amended. You are not legally required to participate in the program and are therefore not required to provide any information. If you choose to participate in this voluntary program, you will be required to provide the information set forth above in order to donate or receive donated leave.

The requested and required information regarding leave donation requests, including medical information and the basis for leave donation requests will be disclosed to those individuals whose work assignments reasonably require access, including committee members, insurance vendors, consultants and attorneys. The information may also be used to make decisions regarding your eligibility for extended sick leave, family and medical leave, and other leaves; your eligibility for workplace accommodations, including accommodations for disabilities; and other benefits. The information may also be shared with other agencies authorized by law to receive specific data, including but not limited to: Civil/human rights; Worker's Compensation; Unemployment Compensation; and Labor Contracts.

Information regarding the value of donated leave as taxable income will be reported to the Minnesota Department of Revenue, the Internal Revenue Services and security tax programs.

[17.134 Bone Marrow/Organ Donation Leave](#)

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, unless agreed to by the city, to undergo medical procedures to donate bone marrow or an organ. The 40 hours is over and above the amount of accrued time the employee has earned.

The city may require a physician's verification of the purpose and length of the leave requested to donate bone marrow or an organ. If there is a medical determination that the employee does not qualify as a bone marrow or organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting bone marrow or organ donation leave rights or remedies.

[17.145 Elections/Voting](#)

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off with pay for purposes of serving as an election judge, provided the employee gives the City at least twenty days written notice, including a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve. The City

may reduce the wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment. The city reserves the right to restrict the number of employees absent from work for the purpose of serving as an election judge to no more than 20 percent of the total work force at any single worksite.

Every employee eligible to vote may be absent from work during a regularly scheduled election, or during the period allowed for voting in person before election day, for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election. Employees wanting to take advantage of such leave are required to coordinate with the Department Head to avoid coverage issues.

17.156 Reasonable Work Time for Nursing Mothers

Minnesota's Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law (Minn. Stat. §181.939, as amended) gives pregnant and lactating employees certain legal rights and remedies. The City will provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's child, in accordance with and to the extent required by applicable law. The break time may run concurrently with rest and meal periods already provided to the employee.

The City will provide a clean, private and secure room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

The City shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting nursing rights or remedies.

Commented [CR55]: Section 181.939 requires the City to include the DOL's notice language with this policy as well. It can be in an appendix or just right here in the handbook. Either way works.

Please refer to Exhibit E to view the required Reasonable Work Time for Nursing Mothers notice.

ARTICLE 18. EMPLOYEE INSURANCE

Section 18.01 Medical Insurance

The City provides a medical coverage insurance plan for eligible employees as described in the Summary Plan Description.

The insurance coverage takes effect the first day of the month coinciding with or immediately following the employee's date of hire, except as required by applicable law, including, but not limited to, the Affordable Care Act. The City provides contributions to health insurance premiums as approved annually by the City Council.

The City will contribute towards the health insurance premiums of employees and elected officials as described in Exhibit A to this Policy Manual. Information regarding health insurance benefits will be provided by the Human Resource Director for new employees and periodically thereafter. Any further questions pertaining to insurance coverage shall be directed to the Human Resource Director or designee.

Section 18.02 Life and LTD Insurance

The City provides a term life insurance policy for all eligible employees, as described in Exhibit B and the applicable Summary Plan Description. The plan takes effect the first day of the calendar month coinciding with or immediately following completion of six months of employment. The amount of life insurance coverage provided is described in an applicable collective bargaining agreement or determined by the City Council. For elected officials, Department Heads, Municipal Utility Division Managers, and non-union Supervisors, the City will provide life insurance in the face amount described in Exhibit B.

The terms of the long-term disability coverage, including the formula used to calculate the benefit and the waiting period before an employee may receive long-term disability benefits will be established by the City, as described in Exhibit B to this Policy Manual.

Section 18.03 Workers Compensation

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to their supervisor and make arrangements for a medical appointment.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

Pursuant to Minnesota State law, the officials of the City elected or appointed for a regular term of office or appointed to complete the unexpired portion of a regular term are included in the coverage of the Minnesota Workers' Compensation Act.

ARTICLE 19. HEALTH CARE SAVINGS PLAN

The City Administrator, Department Heads, Municipal Utility Division Managers and Non-Union Supervisors are eligible to participate in the Minnesota Health Care Savings Plan ("HCSP"). This plan is pursuant to the Minnesota Statutes, ARTICLE section 352.98 (as

amended). Details regarding employees' participation in the Minnesota Health Care Savings Plan are included in Exhibit C. Employees should direct any questions about participation in this plan to the Human Resource Director.

ARTICLE 20. CAFETERIA PLAN

The City of Brainerd offers its employees a cafeteria plan. The plan allows employees to pay for health insurance premiums, and medical and/or dependent care expenses on a before-tax basis.

The flexible spending program is divided into three (3) separate accounts, which are summarized below:

A. Insurance Premiums Deducted from Paychecks: The amount of premium which is deducted per pay period for health insurance coverage per settled wage/benefits negotiations. Some voluntary insurance deductions may also be eligible.

B. Medical Expenses: Out-of-pocket medical, dental & vision expenses not covered by insurance.

C. Dependent/Childcare Expenses: Dependent care expenses for the care of a child under age 13 and/or a dependent regardless of age who requires care due to an inability to care for himself or herself.

The law limits the maximum contributions that employees can make to their flexible spending account and the specific expenses that can be paid out of such accounts. Employees should contact the Human Resources office for additional details.

Further information on the City's Cafeteria Plan may be obtained from the Human Resource Director.

ARTICLE 21. EDUCATION, TRAINING AND DEVELOPMENT

The City Council has determined that it is in the best interest of the City of Brainerd to support continuing education, training, and development of staff members in order that they may carry out their duties in the most efficient and productive manner possible.

To further this policy the City Council does authorize payment for education, training and/or staff development directly related to an employee's current position in order to increase his/her efficiency and productivity in that position in accordance with the following criteria and procedure.

Section 21.01 Education

The City may reimburse a regular employee for tuition expenses and course fees under

certain circumstances. There shall be no reimbursement for mileage/parking expense. Qualifying tests (SAT, ACT, GRE, CLEP, etc.), required books, student activity fees, and material costs will not be reimbursed. Courses for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for reimbursement.

1. **Pre-Approval.** Prior to starting a class or classes, and in any event no later than August 1 of each year, the employee must obtain written approval from the employee's Department Head and the City Administrator or BPU Commission (for BPU employees only) that the class, certificate, or degree is job related and that the request would benefit the City. Specifically, the courses must be from an accredited institution and directly related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator or BPU Commission. Each approval shall be limited to a single course or academic term. Enrollment in a multiple-year course of study, or approval of reimbursement for any portion of such a course of study does not guarantee that funding will be available in subsequent years or that the City will approve any future course of study, even if related to one that was approved in the past. An employee who is requesting reimbursement for education expenses must have been a regular employee of the City for at least one year before the scheduled course is scheduled to begin.
2. **Satisfactory Completion.** The employee shall provide the Department Head with proof of satisfactory completion with a grade of "B" or better of any course requested for reimbursement, prior to reimbursement.
3. **Employees seeking reimbursement must present a paid fee statement and grade transcript in order to receive reimbursement.**
4. **Reimbursement for classes taken at private institutions shall not exceed the tuition charged by the Minnesota State University system.**
5. **Time Off.** If class is during the regular workday, an employee must take that time as compensatory time, vacation time, or leave of absence without pay, or the employee can request a flexible scheduling arrangement, subject to approval by the Department Head and City Administrator or BPU Commission (for BPU employees only). Classes or course work taken by the employee must not disrupt or interfere with the normal Departmental operations. Completion of preparatory work and homework are not permitted during scheduled work hours.
6. **Continued Employment.** The employee must remain with the City of Brainerd following completion of the course for which the City provided reimbursement pursuant to this policy, or else return to the City the expense amount(s) reimbursed pursuant to this policy. If the employee voluntarily terminates employment with the City after receiving education reimbursement pursuant

to this policy, the employee must repay the reimbursed tuition immediately according to the following schedule:

- Up to 1 year after receiving reimbursement – 100% of the tuition reimbursement
 - 1 year but less than 2 years after receiving reimbursement – 66% of tuition reimbursement
 - 2 years but less than 3 years after receiving reimbursement – 33% of tuition reimbursement
 - 3 years or longer after receiving reimbursement – 0% of tuition reimbursement
7. Funding Procedure. Subject to paragraph 4, above, the City will reimburse its employees for tuition expenses up to a maximum of \$1,500 per calendar year with a total lifetime maximum of \$6,000. All reimbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of this reimbursement shall be defined and interpreted by the City Administrator or BPU Commission (for BPU employees only). Reimbursement is further limited based on availability of budgeted funds. Reimbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives reimbursement requests that exceed its budget allocation for education reimbursement, the Department Head and City Administrator (or BPU Commission, for BPU employees only) shall have the discretion to apportion the available funds, including the discretion to refuse reimbursement.
8. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting reimbursement after successful completion of classes.

Section 21.02 Training and Development

1. The City will pay for job-related, position specific training approved by the Department Head and City Administrator or BPU Commission (for BPU employees only) and deemed necessary to effectively complete the requirements of the position, provided there is adequate funding in the budget appropriation for training, as determined by the Department Head in consultation with the City Administrator or BPU Commission (for BPU employees only).
2. Subject to Paragraph 1 of this ARTICLE, the City will pay for, or reimburse employees for, any and all training required by the City, including training required to attain or maintain job-related certification. Payment of training and/or conference expenses must not exceed \$1,500 per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive

approval by the City Administrator or BPU Commission for BPU employees.

3. Attendance at training or conferences out of state is generally approved only if the training or conference is not available locally. All requests for out-of-state travel and/or national conferences that are applicable to their current position are reviewed for approval/disapproval by the City Administrator or BPU Commission for BPU employees.
4. The Department Heads will maintain records on all employee training done at City expense.
5. The procedure for payment for training and development is as follows:
 - a. A request for payment of fees and course materials must be approved by the City Administrator or BPU Department Head (for BPU employees only), or designee. Such approval will only be granted when it can be demonstrated that the training directly relates to the employee's present position and that it will potentially enable the employee to perform his/her duties in a more efficient and productive manner.
 - b. All course materials paid for by the City are the property of the City of Brainerd and shall be brought to the Department Head of the appropriate Department upon completion of the training.

For purposes of this policy, training and development will include seminars, workshops, and training sessions designed to provide specific applications to an employee's present position. Such training must be approved by the Department Head or the City Administrator.

The City Administrator may grant a leave of absence with or without pay to an employee for the purpose of attending schools, meetings, conferences, and other functions which are a benefit to the City of Brainerd, if, in the City Administrator's judgment such leave will not cause disruption of service.

All training and education opportunities described in this policy are subject to the availability of funds and the budgets of individual departments as well as the City's overall budget.

Section 21.03 Commercial Driver's License Training

Commented [KS6]: This change was approved by the City Council on August 21, 2023.

The City may disburse tuition payments on behalf of an employee who is required to hold a Commercial Driver's License ("CDL") for CDL training from an approved CDL training provider. These disbursements shall be regulated by the below requirements. Training for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for disbursement.

1. Pre-Approval. Prior to starting a CDL training from an approved CDL training provider, and in any event no later than 30 days before said training shall occur, the employee must obtain written approval from the employee's Department Head and the City Administrator that the CDL training is job related, that the training is with an approved CDL training provider, and that the request would benefit the City. Specifically, the training must satisfy training requirements for entry-level drivers under 49 C.F.R. §§ 380.600 – 380.609, including Behind-the-Wheel training curricula. The training must be related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator. Each approval shall be limited to a single CDL training program. Enrollment in a multiple-year program, or approval of disbursement for any portion of such training does not guarantee that funding will be available in subsequent years or that the City will approve any future program, even if related to one that was approved in the past. An employee who is requesting disbursement for CDL training must have been a regular employee of the City for at least 30 days before the scheduled course is scheduled to begin.
2. Payment. After approval of the course or program for which a tuition disbursement is sought, the City agrees to directly pay the approved CDL training provider, on behalf of the employee. Payment to the CDL training provider will be based on budgeted funds available for the current fiscal year and the number of employees with identical tuition disbursement agreements. The City will pay the training provider per training program as long as the invoice is submitted within the enrollment date determined by the CDL training provider. The City will only make payments to the CDL training providers towards the tuition for the CDL training for which tuition disbursement is sought. The City shall not be obligated to pay any amount towards non-tuition expenses, such as fees and expenses for books, technology fees, or other non-tuition amounts.
3. Disbursement Agreement. The employee must enroll in and complete the pre-approved CDL training and incur tuition expenses during their enrollment in order for funds to be disbursed under this Agreement. The City is not obligated to pay any amount under this Agreement, and any such obligation shall cease, if the employee does not complete the training, receives a failing grade, attends a non-approved CDL training provider, attends CDL training for which approval has not

4. Work Hours. Pay for attending training shall follow IRS training requirements or the applicable collective bargaining agreement, whichever is greater. Employees shall have the opportunity to utilize comp time in lieu of overtime for said work hours. The CDL program must not disrupt or interfere with the normal Departmental operations.

a. The employee shall repay, within twelve months of the disbursement of the amount, any amount disbursed for tuition for any course or program:

- i. for which the employee does not complete the course work;
- ii. in which the employee receives an incomplete or failing grade;
- iii. that is from an unaccredited institution;
- iv. that has not been approved by the City; or
- v. that is not required for licensure.

- i. Up to 1 year after receiving disbursement – 100% of the tuition disbursement
- ii. 1 year but less than 2 years after receiving disbursement – 66% of tuition disbursement
- iii. 2 years but less than 3 years after receiving disbursement – 33% of tuition disbursement
- iv. 3 years or longer after receiving disbursement – 0% of tuition disbursement

d. The employee understands and agrees to these repayment obligations.
(Initialed by employee)

6. Funding Procedure. Subject to paragraph 5, above, and approval by the City Administrator, the City will disburse tuition for employees for approved training expenses that have been approved by the City Administrator. All disbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of disbursement shall be defined and interpreted by the City Administrator. Disbursement is further limited based on availability of budgeted funds. Disbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives disbursement requests that exceed its budget allocation for education disbursement, the Department Head and City Administrator shall have the discretion to apportion the available funds, including the discretion to refuse disbursement.
7. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting disbursement.

ARTICLE 22. EMPLOYMENT RELATED REIMBUREMENTS

Section 22.01 Travel & Meal Reimbursement

If employees are required to travel outside of the area in the performance of their job duties, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred, consistent with this Policy.

Travel Approval

Each Department Head is responsible for ensuring that employee travel is approved only if such travel is for City business and is consistent with City policy. Department Heads are responsible for approving all travel requests within their respective departments and must ensure that departmental budget dollars are sufficient to cover requested travel prior to approving. Requests for travel by Department Heads must have prior approval by the City Administrator. The following approvals are needed prior to employee travel:

- 1) **Same Day with Overnight Travel** — Department Head approval is required.
- 2) **Out of State, More Than 300 Miles From Brainerd** — All out-of-state travel exceeding a 300-mile radius from Brainerd must be approved within the annual budget process which is approved by the City Council and BPU Commission. All employees must receive prior approval from their Department Head. Unless otherwise approved by the City Council or BPU Commission, an employee is only eligible to travel out-of-state more than 300 miles from Brainerd on City business once every other year.
- 3) **Out of State, Less Than 300 Miles From Brainerd** — All out-of-state travel within a 300-mile radius of Brainerd must be approved by the Department Head or City Administrator and does not require City Council or BPU Commission approval.

Such authorization must be received by the employee prior to incurring the actual expenses and shall be subject to the availability of funds and the terms of this Policy.

Reimbursable Expenses

1) **Transportation**

Several means of transportation exist and each travel request shall consider the least-costly method. For the majority of travel requests, a City vehicle provides the least cost to the City and shall be considered before any other means. Vehicles from other departments may be available and shall be a consideration. Unless otherwise authorized by the Department Head or City Administrator, all City-related transportation must be by City vehicle.

- a) **City Vehicle** — All direct expenses, other than personal expenses, incurred with regard to the use of a City vehicle will be reimbursed, including fuel, oil, and maintenance/repair expenses. Only City employees are authorized and insured to drive a city-owned vehicle. The use of a City vehicle is otherwise subject to the City's policies.

- b) **Personal Vehicle** – When a [City](#) vehicle is not available, a personal vehicle may be authorized for use. Mileage for use of personal vehicle when traveling to or from a training or work location other than the employee's regular work location is reimbursed at the rate established by the Internal Revenue Service, based on a statement from the employee as to number of miles traveled. All mileage must be computed from the employee's regular work location, or from home, if the employee's home is closer to the destination. For purposes of this policy, the term "regular work location" means the work location from which the employee departs for the regular performance of official duties.
- c) **Airplane/Other** – travel by any means other than by City-owned vehicle or personal vehicle must be approved by the City Administrator, regardless of whether the travel is in-state or out-of-state and regardless of the distance of the travel from the City of Brainerd. Reimbursement for travel by bus, airline train, taxi service, car service, rental car, or other mode of consumer transit will be at the actual rate charged (which must be the lowest rate available for the mode transportation in question). No payment will be made without a receipt accompanying the voucher.
- d) **Other related costs** – Reasonable parking fees, car rental, and fares for rail, bus, taxis and shuttles are all subject to reimbursement if related to City business. Taxis and shuttles reimbursement may include a maximum gratuity of 20%. Gratuities in excess of 20% will not be reimbursed by the City. A standard model sedan shall be used when renting a car unless unusual circumstances dictate otherwise.

2) **Lodging**

The City will reimburse the reasonable cost of lodging for training, seminars or conventions of two or more days generally if the event site is **outside a 50-mile radius** of Brainerd. All lodging expenses will be paid based upon receipt from the motel or hotel. The City will reimburse for lodging at the lowest rate for a single occupancy room. All hotels or motels must be approved by the City Administrator or applicable BPU Department Head (or designee) prior to booking.

An increase in lodging rate due to family members staying is not reimbursable. The employee will be reimbursed only the cost of a single occupancy room. All lodging reimbursements are subject to a maximum amount determined by the City Council and identified in the City's expense reimbursement form.

Lodging reimbursement will not be approved for lodging in the event the traveling employee could arrive at the destination on time by leaving Brainerd by 6:30 AM nor will reimbursement be approved if the employee could return to Brainerd by 9:00 PM. No reimbursement for lodging or time will be approved in the event the traveling employee elects to drive a personal vehicle in lieu of City recommended air travel. Entertainment expenses incurred will not be reimbursed, such as in-

room movies, mini-bar and optional entertainment-type events including golf, gambling etc. that may be provided at conferences.

3) Meals

The City will reimburse the cost of job-related meals if an employee's travel is outside of the Brainerd/Baxter area or if a business meeting is held during typical meal hours. The following guidelines are in place for eligibility of reimbursement for a meal:

Breakfast: The employee is in travel status before 6:00 AM
Lunch: The employee is in travel status between the entire time of 11:00 AM and 1:00 PM
Dinner: The employee is in travel status until 8:00 PM

- a) Meetings scheduled and held during typical meal hours do not automatically necessitate that a meal will be provided at City expense. *The departmental issued credit card shall not be used to pay for meals.*
- b) The maximum amounts per meal and per day attached to the expense reimbursement form apply to the meal, non-alcoholic beverage, sales tax and gratuity.
- c) Gratuities paid by the employee over 20% will not be reimbursed.
- d) Payments for meals cannot be combined in any fashion in order to reimburse an employee for a meal costing more than the maximum amount listed per specific meal. For example, an employee cannot decline a breakfast and/or lunch reimbursement to justify reimbursement of a \$60 dinner.
- e) Meals included as part of a conference, convention, or similar program will be paid in full, whether those meals are included in any registration or tuition fees or presented as a separate charge, and regardless of whether the cost exceeds the established maximum. All such expenses must be approved in advance by the applicable Department Head prior to registration. The Department Head will notify the City Administrator upon approval of any such expenses. Employees are expected to take advantage of meals provided by the conference or seminar. The City will not reimburse an employee for a purchased meal when a meal was provided by the event.
- f) If more than one employee is present at a job-related meal, one employee may pay for the entire meal cost of all employees. The reimbursement request shall clearly identify each employee present for the meal and each employee for whom the employee purchased a meal.
- g) ~~If non-Ccity personnel are present at a job-related meal, the Ccity may reimburse the paying employee for the cost of the meal(s) of the individual(s) if an itemized receipt and a form indicating who attended, where the meal was held and the Ccity-related purpose for the meal is submitted and approved by the Department Head and City Administrator. Reimbursement of a non-employee's meal is subject to the same dollar limit as the employee.~~

Commented [CR57]: This section is problematic in that it may be construed as a gift to the employee (in violation of the public purpose doctrine) or a gift to another public entity's employee (in violation of the gift law).

h)g) When family members are present for a meal and the employee is claiming reimbursement for his/her meal, a separate detailed receipt for the employee's meal shall be requested. The City shall not reimburse the employee for the cost of any family member(s)' meal.

4) Registration or Membership Cost

The City will reimburse the costs for registration, training and membership incurred to attend approved conferences, seminars and training sessions. A check request or credit card receipt shall be submitted to the City's accounts payable department prior to the event for payment of this type of cost, in addition to obtaining the other approvals required by this Policy. The request shall include the necessary documentation evidencing the amount payable. A departmental credit card may also be used for payment based upon receipt of all necessary travel approvals prior to making payment. Departments shall strive to utilize any early registration discounts, when available.

5) Non-Reimbursable Meal and Travel Costs

- a. Alcoholic beverages – whether consumed by an employee or a non-employee
- b. Gratuities exceeding 20%
- c. Snacks and other food/beverages outside of the daily meal reimbursements
- d. Meals or events for spouses or family members traveling with an employee
- e. Meals when an event provides for a meal
- f. Private automobile expenses, including gas, oil, repairs
- g. Traffic citations or fines
- h. Travel between an employee's home and work facility
- i. Entertainment expenses
- j. In-room movies, mini-bar or other hotel services not required for City business
- k. Optional entertainment events unless included as part of the overall conference registration fee (e.g. optional golf, sporting events, concerts, and other performances)
- l. Personal losses incurred while on City business
- m. Other costs that are not directly related to City business, as determined by the City Administrator

City Representation

Employees shall be aware at all times that they are representing the City while traveling out-of-town for official City business. Employees given the opportunity to be away from their regular work site are expected to perform in a similar manner as if they were still at work, including following all applicable City policies as if they were at their regular work site. An employee's conduct during a work-related trip or while otherwise representing the City will be treated as if it occurred during regular working hours and at the regular work site. At no times shall alcoholic beverages be consumed by any person(s) driving or riding in a City vehicle.

Section 22.02 Prescription and Non-Prescription Safety Glasses

The City will pay the cost of prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions, up to a maximum of the base cost as stated in the City's agreement with a local vision provider(s). The employee is responsible for all other costs associated with obtaining the prescription, including eye examination.

The City will provide non-prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.03 Safety Boot Policy

The City will pay annually up to 50% of the cost for safety boots for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.04 Damage to Personal Items

An employee's personal items, such as watches and prescription eyewear, which are damaged or destroyed during the course of his/her work shall be reimbursed by the City for the value of the item damaged or the cost of the repair, if possible, up to \$450 per employee in a three (3) year timeframe. In order to receive such reimbursement, the employee must submit a detailed statement describing the item, how it was damaged, whether the employee believes it to be reparable, how the employee determined the value of the item, and any estimated costs of repair.

Section 22.05 Cold Weather Outerwear

Some employees may be required to work outdoors in cold weather for extended periods of time. The City will furnish each such employee one set of insulated cold weather outerwear at a frequency of no greater than once every 36 months, unless damaged beyond repair, as determined at the discretion of the Department Head. The cold weather outerwear will consist of three pieces — a coat, a vest, and a bib overall, and will be insulated brown duck canvas or ANSI, with a City of Brainerd insignia (or BPU insignia, as appropriate) on the coat. The employee will be responsible to keep his or her cold weather outerwear clean and in good repair at all times. The cold weather outerwear shall be kept at work at all times, except for the purpose of cleaning and/or repair to the outerwear.

Section 22.06 Personal Cell Phone Stipend

Employees whose work requires the use of a cell phone and who have been designated to receive a cell phone stipend by the City Council, or designee in their sole discretion will receive a monthly stipend in the amount determined by the City Administrator. At this time, no additional employees will be granted permission for this benefit. Employees receiving a stipend are responsible for:

- A. Providing proof of purchase/lease of cell service, and other documents prescribed by the City to activate and maintain stipend payments, at intervals to be determined by the City Administrator;
- B. Purchase, replacement, repair, or service or operational questions of the phone will be the responsibility of the employee and at the employee's sole expense;
- C. Using a secure password, PIN, or gesture to prevent unauthorized access;
- D. Procuring and maintaining cellular service from a reliable carrier who provides service in the City service area;
- E. Limiting personal use of the cell phone during work hours so as not to interfere with City business or the performance of the employee's job;
- F. Agreeing that their cell phone may be physically or remotely accessed, tracked, modified, or wiped based on City security needs.

The cell phone stipend is intended to cover approximate costs of the employee's cell phone expenses related to work duties. Initial purchase of the cell phone, accessory equipment, and activation fees will be the responsibility of the employee, as will maintenance, insurance, and repair costs (if any). The employee will pay any and all costs exceeding the amount of the cell phone stipend. No stipend will be paid when an employee is in an unpaid leave status for more than 30 days or duties change in such a manner which no longer justifies the payment.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal e-mails, text messages, and social media messages created, received, collected, maintained, or generated on an employee's personal cellular device by virtue of his or her position with the City are subject to those laws.

Section 22.07 Approval of Expenses

Employees shall submit an expense reimbursement claim no later than **60 days** from the date the expense was paid or incurred. Requests for reimbursement must be accompanied by a signed Employee Expense Reimbursement Form, as updated from

time-to-time by the City. As discussed in this Policy, detailed, itemized receipts and other information shall be submitted with the claim for reimbursement, depending on the type of expense.

The City shall annually and periodically provide an updated Employee Expense Reimbursement Form. This form shall be used for all reimbursement requests related to approved travel or work-related expenses paid by an employee.

- 1) **Detailed Receipts** – each item submitted for City reimbursement must be supported by an itemized receipt indicating a reasonable explanation for the expense. All receipts shall be attached to each reimbursement request.
 - a. Meals will be reimbursed based on a detailed itemized receipt. When a credit card is used to purchase the meal, both an itemized receipt and a credit card charge slip indicating the tip amount shall be submitted.
 - b. Receipts for parking and taxis may not be available and may be submitted for reimbursement without a receipt.
 - c. Mileage reimbursement for the use of a personal vehicle shall detail not only the mileage but also the location traveled and the business reason for travel.
 - d. Proper departmental expense codes shall be used for each line item.
 - e. Unsupported expenses will not be reimbursed. If an employee is unable to get a detailed receipt or the receipt is lost, a signed statement by the employee detailing the purchased item, the business reason for the expense and certifying that the claim is accurate must be submitted and approved by the Department Head. A copy of the employee's credit card statement may also be provided to help support the dollar amount being reimbursed.
- 2) Employees shall submit an employee expense reimbursement form with all necessary supporting documentation to the appropriate Department Head or designee for review.
- 3) The expense form will be routed through the Accounts Payable process for payment and approval. Any issues will be communicated back to the employee for correction/clarification.
- 4) The Finance department will make necessary corrections to reimbursement requests for mathematical errors, gratuities in excess of 20%, to remove any alcoholic beverages and other changes that may be necessary to comply with this policy.
- 5) Reimbursement will be made with the next City Council check register, or payroll if the meal reimbursement is taxable.

Signing an expense voucher or request for reimbursement certifies the truth and correctness of the expense incurred. Knowingly submitting a false or inaccurate expense voucher, receipt, request for reimbursement, or other record may result in discipline, up to and including termination.

ARTICLE 23. DRUG-FREE WORKPLACE/ALCOHOL ABUSE POLICIES

Section 23.01 Drug-Free Workplace/Alcohol Abuse

It is the policy of the City to provide a drug-free environment. The City's goal is to establish and maintain a healthy and efficient workforce free from the effects of drug and alcohol abuse in compliance with the requirements of the federal Drug-Free Workplace Act of 1988 (as amended) and other applicable law. This requires employees abstain from using alcoholic beverages, [cannabis](#), mood-altering drugs, and drugs that adversely impact performance, prior to the start of their workday, during the work period, during lunch and other work breaks. Any violation of this policy shall result in disciplinary action, up to and including discharge.

- A. The use of alcohol, [cannabis-and, or](#) the illegal use of drugs by an employee on duty can result in a dangerous work environment by negatively affecting job performance and the ability to function safely at work.
- B. The unlawful manufacture, distribution, transfer, possession, or use of drugs while on duty is strictly prohibited. Any such use may justify immediate discharge regardless of job performance. [This provision does not apply to possession of drugs by sworn Police Department employees necessitated by their official job duties.](#)
- C. Intoxication, possession, and unauthorized use of alcohol [or cannabis](#) while on duty is also prohibited and may justify immediate dismissal regardless of job performance. [This provision does not apply to possession of alcohol or cannabis by sworn Police Department employees necessitated by their official job duties.](#)
- D. Tolerance may be shown to an employee expressing a desire and willingness to receive treatment for their drug or alcohol use.
- E. Human Resources will provide any employee, upon request, information regarding alcohol abuse and drug dependency as well as information on available treatment programs.
- F. Confidentiality will be maintained, to the extent permitted by the Minnesota Government Data Practices Act and other applicable laws.
- G. It is the responsibility of the employee to correct his or her unsatisfactory behavior or job performance resulting from drug, [cannabis](#) or alcohol use.
- H. The Human Resource Director must be notified by the employee no later than five (5) calendar days following any criminal drug statute or alcohol related conviction

for a violation occurring in the workplace or any arrest or conviction of any criminal drug or alcohol offense.

- I. Violations of this policy may constitute cause for discipline, up to and including discharge. Each situation will be evaluated on a case-by-case basis depending on the severity and circumstances involved.

The City recognizes drug and alcohol abuse as potential health, safety and security problems. Employees needing help in dealing with drug and alcohol problems are encouraged to make use of the medical resources available through their health insurance plans.

Section 23.02 Drug & Alcohol Testing

The City has adopted Drug, ~~and~~ Alcohol, ~~and~~ Cannabis Testing Policies, separate from the Employee Policy Manual, covering employees required to hold a commercial driver's license (CDL) or a non-commercial driver's license (non-CDL) to perform their job duties and other employees. All employees are required to sign a document that states that they have received a copy of the policy. Each employee must review the document and abide by its provisions. Copies can be obtained from the City Administrator's office and the Human Resource Director's office.

Section 23.03 Drug-Free Awareness Program

To assist employees in understanding the perils of drug and alcohol abuse, the City has established a Drug-Free Awareness Program. This drug and alcohol policy constitutes the City's drug-free awareness program and fulfills the notification requirements of the federal Drug-Free Workplace Act of 1988 (as amended). The City will use this program as an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The program will inform employees of the dangers of drug and alcohol abuse, explain the City's Drug and Alcohol Policy and the sanctions imposed for its violation, and highlight any treatment, counseling, and rehabilitation referral services that may be available to employees in the City. Nothing set forth in this policy is intended to conflict with state law.

An employee convicted of a criminal drug offense committed in the course of employment will be subject to appropriate disciplinary action and/or required to complete successfully an appropriate rehabilitation program at the employee's own expense unless provided to the employee through insurance coverage. The City, in its sole discretion, shall determine what disciplinary action is appropriate.

Section 23.04 Tobacco Use

A. PURPOSE

The City has established this policy regulating tobacco use in City-owned buildings and vehicles:

1. To comply with the Minnesota Clean Air act.
2. To respond to the increasing evidence that tobacco use creates a danger to the health of persons who use tobacco as well as persons who are present in a smoke-filled environment.
3. To promote a safe and healthy environment for staff and citizens and to set an example to the community in limiting tobacco use.

B. STATEMENT OF POLICY

1. All City-owned buildings and vehicles shall be tobacco-free which includes smoking, as defined by Minnesota Statutes, [ARTICLE-section 144.413](#), as amended, the use of tobacco products and electronic cigarettes, as defined in Minnesota Statutes, [section 609.685](#), as amended. Park shelters are exempt from this policy to the extent provided by applicable law.
2. Tobacco use is prohibited within all City-owned buildings, this includes employee workstations, employee break areas, reception areas, storage areas, hallways, meeting rooms and all other areas inside buildings not specifically mentioned herein.
3. Within City-owned vehicles, smoking and other tobacco use is prohibited by any and all occupants.
4. All individuals on City premises share in the responsibility for adhering to and enforcing this policy. The responsibility for compliance is shared by employees, Supervisors, and the general public.
5. Employees hosting visitors are expected to inform them of the City's tobacco free policy.
6. Information on approved smoking cessation programs is available to City staff by the Human Resource Director.
7. Complaints of violation of the policy should be directed to the Department Head responsible for the particular work area or facility involved in the complaint. The Department Head shall be responsible for notifying the violator of the pertinent portions of this policy. Failure to comply with the policy may result in discipline,

up to and including immediate termination, if the violation is committed by an employee, or may result in the individual being asked to leave the City's premises, if the violation is committed by a member of the public.

ARTICLE 24. EMPLOYEE SAFETY MANUAL

The City has adopted an Employee Safety Manual, separate from the Employee Policy Manual. All employees are required to sign a document that states that they have received a copy of the manual. Each employee must review the manual and abide by its provisions. Copies can be obtained from the City Administrator's office or the Human Resource Director's office.

ARTICLE 25. POLITICAL ACTIVITY

City employees have the right to vote as they please, to express their personal opinions on political subjects in their capacity as individuals and retain membership in political parties.

An employee may be a candidate for partisan or non-partisan public office provided that no employee shall campaign for such office during actual hours of work. City employees' political activity may be subject to state and federal laws including, but not limited to, the federal Hatch Act, the Minnesota Fair Campaign Practices Act, and Minnesota Rules part 9575.0080, and all amendments thereto.

No employee will be permitted to express any view on any legislative protocol, candidate for office, elected official, or other topic on behalf of the City unless expressly approved to do so by the City Council or designee. Any and all lobbying activities undertaken, or purportedly undertaken, on behalf of the City must be approved in advance by the City Administrator and comply with the City's expectation and direction for such activities.

The City prohibits employees from participating in political activities on City time, using City resources, or while performing City functions, except as required by law. Employees must not identify themselves as a City employee by either appearance or declaration while expressing personal political opinions.

ARTICLE 26. HARASSMENT

It is the policy of the City that harassment and inappropriate conduct of employees is prohibited. The City seeks to promote a professional work environment where employees can perform their jobs free from abuse by others. This policy applies to all of the City's employees while performing their duties as employees within or outside the workplace. For purposes of this policy, employees include all individuals who are hired, elected, appointed, or contracted to provide services to the City.

Harassment is unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, or degrading environment, or interferes with or adversely affects a person's work performance based on race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

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 productive performance.

A. STATEMENT OF POLICY

It is the policy of the City that harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The desired standard of employee behavior is one of cooperation and respect for each other, despite any differences. Employees have a right to a workplace free of verbal and/or physical harassment.

B. SEXUAL HARASSMENT

1. Definition

For purpose of this policy, sexual harassment is defined as physical or verbal conduct relating to an individual's gender or directed at an individual because of gender, unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual or gender-related nature when:

- a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or continuing employment or a basis for employment decisions affect that individual; or
- b. submission to or rejection of that conduct or communication by an individual is used as a factor in any employment decisions affecting the individual or decision related to the individual's access to public services or public accommodations affecting said individual; or
- c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public service, or public accommodation, or of creating an intimidating, hostile or offensive employment environment.

A single act or communication may constitute sexual harassment.

2. Examples of Conduct that can Constitute Unlawful Sexual Harassment

Examples of sexual harassment include, but are not limited to, the following:

- a. Unwelcome subtle or overt pressure for sexual activity.
- b. Repeated, unwelcome suggestions regarding, or invitations to, social engagements or work-related social events.
- c. Verbal abuse or innuendo of a sexual nature.
- d. Unwelcome physical contact such as touching, hugging, patting, pinching, pawing, poking, or slapping.
- e. Any unwelcome sexual or sexually motivated touching.
- f. Comments of a sexual nature about an individual's body or sexual terms used to describe an individual.
- g. Display or distribution of sexually suggestive or sexually explicit objects or pictures, including cartoons, articles, pictures, and other graphics which have a sexual conduct and which are not necessary for work.
- h. Jokes or remarks of a sexual nature to, or in the presence of, people who may find them offensive.
- i. Prolonged staring or leering at a person.
- j. Use of suggestive facial expressions, gestures of a sexual nature, or sexually suggestive or insulting sounds.
- k. Any demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment or other indication, express or implied, that an employee's job security, assignment, opportunities for advancement, or other terms or conditions of employment may depend on the granting of sexual favors to any other employee, supervisor, elected official, or manager.
- l. Any action relating to an employee's job status, which is taken as a direct result of the granting or refusal of social or sexual favors.
- m. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.
- n. Indecent exposure.
- o. Other physical or verbal conduct directed at another because of sex or gender.

Normal, courteous, mutually respectful, pleasant, non-coercive interactions between people that are acceptable to both parties are not considered to be sexual harassment.

C. OTHER PROTECTED CLASS HARASSMENT

Other protected class harassment is offensive conduct or communication based on an individual's race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), color, creed, religion, national origin, sexual orientation (including gender identity or expression), disability, age, marital status, familial status, status with regard to public assistance, or any other characteristic protected by state or federal law when:

1. Submission to such unwelcome conduct or communication is made either explicitly or implicitly as a term or condition of obtaining or retaining employment or access to public services or accommodations;

2. Submission or rejection of such unwelcome conduct or communication by an individual is used as a factor for any employment decision or decision related to the individual's access to public services or public accommodations affecting said individual; or

3. Such unwelcome conduct or communication has the purpose or effect of substantially interfering with any person's employment, public services or public accommodation, or creating an intimidating, hostile, or offensive work environment.

D. Department Head/Supervisory Responsibilities

Department Heads and Supervisors are responsible for maintaining a work environment free of sexual harassment and other protected class harassment. It is their responsibility to ensure that all employees comply with the City's Policy. Department Heads and Supervisors must respond promptly and appropriately to both allegations and confirmed reports of harassment.

In the absence of a complaint, Supervisors and Department Heads observing conduct that may constitute prohibited harassment in the workplace are responsible for calling such behavior and this policy to the attention of the participants at the time of the observance. A written summary of the discussion shall immediately be forwarded to the City Administrator.

Supervisors and Department Heads receiving complaints or reports of alleged inappropriate conduct shall immediately forward a report to the City Administrator prior to taking any action on the complaint. The City Administrator or designee will make the determination as to whether, and to what extent, an investigation is warranted, who will investigate, and what methods will be used in the investigation.

Failure of a supervisory employee to immediately forward reports of observances or complaints to the City Administrator shall be grounds for disciplinary action, up to and including termination of employment.

E. Employee Responsibilities

All City employees are expected to treat all other employees and the public with respect and to comply with this policy. Any employee found to have violated this policy will be subject to appropriate disciplinary action, up to and including discharge from employment.

F. Complaint Procedure

Any employee who believes he or she is being subjected to sexual harassment or other protected class harassment in any form, or any employee with knowledge or belief of conduct on the part of another employee or other individual which may constitute a violation of this policy, is required to report the alleged conduct immediately to a Supervisor, the Department Head, or the City Administrator. While the City encourages written reports of the alleged conduct, verbal reports will be accepted. The individual receiving the report should be prepared to supply the following information:

1. Date, time and location of incident
2. Identification of the offender(s)
3. A detailed description of the incident
4. Any materials in the complaining employee's possession related to the incident (e.g. cartoons, articles, pictures)
5. Identification of any potential witnesses to the incident

Additionally, at the time of the incident, if you are the employee being subjected to the inappropriate behavior and feel comfortable in doing so, you may, but are not required to, courteously, but firmly, tell the individual(s) engaging in the inappropriate behavior to stop the behavior because the behavior makes you feel intimidated, offended or uncomfortable. Include a summary of this discussion in your report to the Supervisor or City Administrator.

Any Department Head or other supervisory employee who receives a formal or informal, oral or written report of harassment shall inform the City Administrator immediately without screening or investigating the report, unless the City Administrator is involved or has a conflict of interest, in which case the report shall be made to the Mayor pursuant to the reporting procedures. Failure of any supervisory employee of the City to forward such a report to the appropriate party shall be grounds for discipline.

By the authority of the City Council, the City Administrator, upon receipt of a report or complaint of sexual harassment or other protected class harassment, shall undertake or authorize an investigation. The investigation may be conducted by City Officials or by a third party designated by the City.

The City may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.

The investigation methodology will be determined by the investigator depending on the specifics of each complaint. Investigations typically include, at a minimum, interviews with the reporting employee, the complaining employee (if different from the reporting employee) and alleged offender(s). The investigation methodology may additionally include additional interviews, document review and other methods deemed pertinent by the investigator.

G. Confidentiality

Records maintained pursuant to this policy are subject to the Minnesota Government Data Practices Act, the Minnesota Records Retention Act, and other applicable laws. Subject to those laws, every effort shall be made to respect the privacy of the parties to a complaint, without compromising the thoroughness of the investigation.

H. No Reprisal for Filing Complaint of Harassment

The City will not tolerate acts of retaliation against employees who have made a good faith report of suspected violations of this policy or any person who assists in the investigation of such a complaint regardless of the outcome of such investigation. The City will discipline or take other appropriate action against any employee who engages in acts of retaliation toward these individuals. For purposes of this policy, retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

I. Disciplinary Procedure

1. An employee who violates this policy will be subject to disciplinary action up to and including discharge.
2. Any employee who prevents or attempts to prevent an individual from reporting a suspected violation of this policy or who interferes in any way with the investigation of such a report will be subject to disciplinary action, up to and including discharge.
3. Any employee who retaliates or discriminates against an individual who reports a suspected violation of this policy or assists in the investigation of such a report will be subject to disciplinary action, up to and including discharge.
4. Supervisor, managers, or Department Heads who become aware of violations of this policy in their department, even in the absence of a formal complaint, shall take appropriate disciplinary action, in consultation with the City Administrator.
5. Any non-employee found to have violated this policy may be removed from the City property or other appropriate action may be taken.

The Data Practices Act may allow individuals who are not directly involved with the complaint to access records related to the complaint in certain circumstances.

ARTICLE 27. GRIEVANCES

It is the policy of the City insofar as possible to prevent the occurrence of grievances and

to deal promptly with those which occur. For purposes of this policy, a grievance is defined as a dispute or disagreement as to the interpretation or application of the City's personnel policies.

Employees shall have the right to present grievances either individually or as a group. Grievances shall be presented to the City Administrator in writing, within five (5) calendar days of the occurrence of the alleged grievance.

The City Administrator shall respond to an employee's grievance within fourteen (14) calendar days after receiving the alleged grievance. The decision of the City Administrator is final, except that when the City Administrator is directly involved in the grievance, appeal may be made to the Personnel and Finance Committee for final decision within fourteen (14) calendar days of the City Administrator's decision. In such an appeal, the Personnel and Finance Committee's decision is final. In the event that the City Administrator does not respond to the grievance within fourteen (14) calendar days of receipt, the grievance shall be considered denied for purposes of the appeal time period discussed above.

In compliance with federal or state law, an employee may also grieve any alleged unsafe act or practice, adverse working conditions, violation of civil rights, and alleged hazardous materials management.

Concerns that employees have ~~cannot-should not~~ go directly to individual members of the City Council. The City Council acts as a body and not as individuals ~~and going directly to the City Council with problems is inappropriate~~. Likewise, ~~for individual Council members to be giving direction to staff without the knowledge of the City Administrator is inappropriate~~. Again, the City Council gives its direction, as a policy making body, to the staff through the Administrator.

ARTICLE 28. DISCIPLINE AND DISCHARGE

Section 28.01 At-Will Employment

City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including failure to observe proper workplace conduct adopted by the City Council. It is the policy of the City to administer disciplinary penalties without discrimination. Except for probationary employees and as expressly described in this Policy, employees may use the grievance procedure as per the personnel policy with respect to any disciplinary action. To the extent feasible, the supervisor or department head shall gather relevant information before reporting the incident to the Human Resource Director. At the direction of the Human Resource Director, the supervisor or department head may gather additional relevant information and investigate any

allegation on which disciplinary action might be based before any disciplinary action is taken.

Nothing in this Policy shall be interpreted as altering the City employees' status as "at-will" employees or creating any type of "just cause" standard for discipline or termination. When determining whether to impose discipline, including termination, the City may consider all relevant factors, including, but not limited to, the seriousness and frequency of misconduct, and the employee's discipline history.

Grounds for discipline and discharge will include, but is not limited to the following:

- A. Incompetence, ineffectiveness, or inefficiency in the performance of duties;
- B. Criminal conduct which would constitute a felony, gross misdemeanor, or misdemeanor except as limited by Minnesota Statutes, Chapter 364 (as amended);
- C. Violation of any City policy, procedures, work rule, regulation or City ordinance, including the provisions of this manual and any safety and/or health policies and procedures;
- D. Being under the influence of alcohol, cannabis, drugs, or controlled substances while performing duties for the City, while on City premises, or while acting as a representative of the City off premises;
- E. Discourteous, hostile, insulting, abusive, or inflammatory conduct toward the public, a fellow employee or fellow employees, a supervisor or supervisors, a member of the City Council or members of the City Council, or a member of any City commission, or members of any City commission;
- F. Theft, misuse, carelessness and/or negligence in the handling or control of City property or property entrusted to the employee by the City, including allowing unauthorized persons to ride in City vehicles, or the unauthorized appropriation of City property for the employee's own use;
- G. Inducing or attempting to induce a person, officer or employee of the City to commit an unlawful act or to act in violation of any City policy, procedure, regulation, ordinance, or workplace directive or order;
- H. Dishonesty in the performance of duties;
- I. Sleeping during work hours;
- J. Willful misconduct or insubordination;
- K. Acceptance of a gift under circumstances from which it could be inferred that the

giver expected or hoped for preferred or favorable treatment in conduct of City business and/or acceptance of a gift in violation of applicable law or City policy;

- L. Unapproved use of paid work time and/or equipment in outside employment or for personal benefit;
- M. Falsely stating or falsely making claims of injury or illness;
- N. Gambling while on duty, on City property, or using City equipment or resources;
- O. Inability to perform the essential functions of the employee's job, whether due to physical or mental impairment, or otherwise;
- P. Any possession, sale, distribution, possession, or unauthorized use of alcohol, cannabis, or controlled substances, during working hours and/or while representing the City;
- Q. Unexcused absence from work;
- R. Tardiness in reporting to work;
- S. Improper reproductions or misuse of copyrighted materials;
- T. Theft of City property or personal belongings of others;
- U. Abuse of official position with the City to achieve personal, political, or financial gain;
- V. False or inaccurate claims for reimbursement of expenses;
- W. Disorderly, abusive, or indecent conduct that causes disruption of the work environment, including fighting;
- X. ~~UU~~Unauthorized possession of weapons on City property;
- Y. Allowing unauthorized visitors into unauthorized City offices and locations;
- Z. Unauthorized disclosure of private, confidential, or nonpublic data;
- AA. Failure or refusal to comply with City or department regulations, policies, or procedures; and
- BB. Any other conduct which, in the discretion of the City, constitutes a breach of the standards of behavior which it should reasonably expect of its employees.

Employment at the City may be terminated at the will of either the employee or the City, at any time, and for any legal reason or no reason.

Section 28.02 Procedures

- A. Discipline may be in one or more of the following forms, although **the City of Brainerd reserves the right to take any disciplinary action at any time:**
 - 1. oral reprimand;
 - 2. written reprimand;
 - 3. suspension;
 - 4. demotion; or
 - 5. discharge.
- B. Suspension, demotion and discharge will be in written form and will state the reasons for such action.
- C. Reprimands, notice of suspension, and notice of discharge are to become part of an employee's personnel file. The employee will receive a copy of any reprimands and/or notices.
- D. Employees receiving a written reprimand, suspension, demotion, or discharge shall be given a copy of the discipline document and sign the original, acknowledging that he or she has received the written reprimand, suspension, demotion, or discharge. The signature of the employee does not necessarily indicate that he or she agrees with the disciplinary action. If the employee refuses to sign the original written reprimand, suspension, demotion, or discharge, such refusal will be noted on the discipline document. All written discipline will be placed in the employee's personnel file.
- E. Consistent with applicable law, employees may examine their own individual personnel files at reasonable times under the direct supervision of the City Administrator or designee.

Section 28.03 Supervisory Authority

- A. Oral and Written Reprimands. Department Heads have the authority to impose oral and written reprimands without prior approval of the City Administrator. The Department Head must maintain a record of each verbal reprimand. A verbal reprimand may not be appealed or submitted through the grievance process.
- B. Suspension. The City Administrator may suspend an employee.

C. Demotion and Discharge. An employee may be demoted or discharged by recommendation of the City Administrator and final determination by the City Council.

Section 28.04 Right of Appeal

An employee may appeal an oral or written reprimand verbally or in writing to the City Administrator within five (5) work days after disciplinary action has been imposed. The City Administrator will make the final determination and will inform the employee in writing regarding the decision made.

An employee may appeal a suspension without pay, or recommendation for demotion or discharge to the City Council by requesting, in writing, that a hearing be conducted for that purpose. Such request must be made by the employee to the City Administrator within five (5) days after disciplinary action has been imposed. At its sole discretion, the City Council may hold the hearing at its next regularly scheduled meeting or any date within thirty (30) days of such meeting. The City Council has the sole discretion to conduct the hearing or to appoint a subcommittee to conduct the hearing. If the City Council appoints a subcommittee, the subcommittee shall make its recommendation to the City Council at the next regularly scheduled meeting of the City Council following the hearing. The decision of the City Council will be final.

If the appeal is upheld by the City Council, the employee shall receive all payments, benefits and service accrual which the employee would have earned during the period of suspension without pay, demotion or discharge and be reinstated to the position.

For purposes of the Minnesota Government Data Practices Act, the initial disciplinary decision constitutes the final disposition of a disciplinary matter, unless the employee files a timely appeal with the City Council. In such cases, the City Council's decision constitutes the final disposition.

The procedures described in this Section are employees' exclusive remedy for challenging a disciplinary action using these Personnel Policies. The grievance procedure described in Article 27 is not applicable to disciplinary decisions.

ARTICLE 29. ACCIDENT PROCEDURES

As a City employee, it is important that you are aware of certain procedures to be followed if you are injured on the job or involved in an accident while operating City equipment. These procedures have been established to protect your interests as an employee, as well as protect the City.

Employees shall comply with all federal and state laws and rules concerning vehicles and

their safe operation. Safety devices, such as seat belts, lights, horns, etc., shall be utilized.

Compliance with speed limits, safe driving procedures, and proper licensing requirements will be enforced by the City.

Employees are responsible for performing routine checks (i.e., tire pressure, oil, turn signals, lights) before operating a City-owned vehicle.

If you are involved in an accident while operating any City-owned vehicle or piece of equipment, or while engaged in City business with any hired or privately-owned vehicle:

- A. Notify the police and/or emergency medical services, as appropriate, by dialing 911, and your supervisor IMMEDIATELY.
- B. Request that all parties and property concerned remain at the scene of the accident, if possible, until a law enforcement representative has released them.
- C. Obtain identifying data from the driver of the other vehicle (i.e. name, address and insurance company).
- D. Secure names and addresses of injured persons and any witnesses to the accident.
- E. Employee responsibility is to refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, appropriate City officials, and representatives of his or her own insurance company, if the employee's privately-owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations. A copy of all police reports and any statements attached thereto will be forwarded to City Administration or designee within one day of receipt by the employee(s) involved in the accident.
- F. Employees shall refrain from admitting fault or liability and must gather all applicable loss data, witnesses, injured parties, passenger names, vehicle and driver's license numbers.

Employees who sustain personal injury or illness in any work-related accident are REQUIRED to report the injury to their supervisor immediately (no matter how minor). Once your supervisor has been notified of an accident, he/she will inform you of the steps to be taken to properly report and record the occurrence. Your supervisor may also direct you to proper medical attention where necessary. If it is necessary for you to complete an "Employee Incident" form, it should immediately be completed and returned to your supervisor. If it is necessary for you to miss work because of a work-related accident, it

is your responsibility to keep your supervisor informed of the date you are able to return to work. In most instances, your treating physician will provide you with that information during your initial visit.

Please remember that following these simple procedures not only ensures accurate record keeping of accidents and personal injuries as required by law, but also protects your interests as an employee. For your own protection, be sure to report any accidents and injuries you may have, no matter how small.

Employees using a City-owned vehicle may be held liable for accidents in which he or she is involved. Employees will be personally responsible for paying any citation or other criminal sanction received while operating a City-owned vehicle.

**ARTICLE 30. STATEMENT OF POLICIES AND PROCEDURES
FOR PAYMENT AND/OR REIMBURSEMENT OF COSTS AND
ATTORNEY'S FEES FOR MUNICIPAL OFFICERS AND EMPLOYEES**

The City may reimburse its employees or officers for costs and reasonable attorney's fees incurred by an employee or officer, to the extent permitted by Minnesota Statutes, [ARTICLE-section 465.76](#).

ARTICLE 31. TECHNOLOGY USE

General Information

This policy serves to protect the security and integrity of the City of Brainerd's ("City") electronic communication and information systems by educating employees about appropriate and safe use of available technology resources. All employees are responsible for reading and following information that may be distributed from time-to-time about appropriate precautions to protect City systems.

City-owned computers, cellular telephones, mass storage devices, and related equipment used by City employees are property of the City. Except when accessed by the police department for law enforcement purposes, the City specifically reserves the right to audit, monitor, and inspect, without notice, without the user's consent, and for any reason or no reason, employees' use of its computers and related equipment and all data, emails, files, settings, or any other aspect of a City-owned computer or related system, including personal information created or maintained by an employee. An audit may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation.

All City owned equipment, including, but not limited to, computers, laptops, telephones, mobile devices, field electronics, mass storage devices, e-mails, voice mail, text messages on City paid cellular telephones, or any other type of equipment provided are City property. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion. City employees and other users shall have no expectation of privacy in any property or equipment of the City.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal messages and internet logs, created, received, collected, maintained, or generated by City employees or using the City's computer and/or related equipment are subject to those laws. In accordance with applicable law, such files and documents may be disclosed in certain circumstances

without the permission of the employee or user.

Users should notify IT staff upon learning of violations of this policy. Violation of this policy may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation. All violations will be addressed consistent with the City's Personnel Policies or applicable union contract.

Data Privacy and Retention

All data stored on computers, related equipment, and media owned, leased or rented by the City is considered to be owned by the City and is subject to the MGDPA, which governs its use and dissemination. All city owned equipment and Information Technology Systems, including e-mail, are City property and subject to inspection by the City at any time, without notice, and for any reason or no reason at all. The City Administrator or Human Resource Director should be contacted with questions regarding the classification of public and private data.

Data Ownership: All information developed or introduced to a City computer or related equipment by a user in conjunction with employment with the City is the property of the City.

Data Storage: All City data must be saved to a network drive on a City server or City provided resource.

Data Deletion: Users are responsible for deleting outdated files that are no longer needed for compliance with the City Records Retention Schedule; this includes data files and email messages that do not need to be retained in accordance with the City's Records Retention Schedule. The City Administrator should be contacted with questions regarding the City Records Retention Schedule.

Data Back-up: The IT department backs up most data stored on network servers or cloud storage. Workstation hard drives or any other devices are not backed up and are subject to failure and may result in permanent data loss.

Personal Use

The City offers employees the privilege of limited personal use of City-owned computers and related equipment. Personal use is allowed under the following guidelines and only during break times or before/after normal paid working hours:

- Only City employees may use City-owned equipment. Family members or friends of City employees are not allowed to use City equipment or technology resources.
- Employees shall not connect personal peripheral tools or equipment (such as cell phones, USB drives, flash drives/cards, disks, digital cameras, or printers) to City-owned systems, without prior approval from IT staff. If permission to connect these tools/peripherals is granted, the employee must follow provided directions for protecting the City's computer network.
- Personal files should not be stored on City computer equipment. This also applies to personal media files, including but not limited to personal documents, images, audio and video files. IT staff may delete these types of files if found on City-owned equipment. Exceptions would be recordings for which the City has created, owns, purchased, or has a license.
- City equipment or technology, including City-issued email accounts, shall not be used for: illegal activities, personal business interests, for-profit ventures, political activities, outside employment, public office or employment which is incompatible with City employment, wagering, betting, or selling chances, annoying or harassing other individuals, fund-raising except for City-approved activities, religious activities, pornographic, obscene, or indecent images or content, forwarding junk email, advertisements, or chain emails, or other uses deemed by City management to be inconsistent with City activities. If any employee has a question as to whether a use is appropriate, that employee must contact the City Administrator or applicable Department Head for permission before engaging in the conduct in question.
- The City reserves the right to monitor end user activity. Software and/or hardware may be used to monitor, filter, block, or limit internet activity. The City may inspect any data or information stored on its equipment or network, even if the information is personal to the employee.

Hardware

In general, the City will provide the hardware required for an employee to perform their job duties. Requests for new or different equipment should be made to the Department Head, who may consult with IT staff.

Unapproved hardware, including cameras, mobile devices, printers, external storage devices, and any other peripherals that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited. IT staff may, without notice, remove any unauthorized equipment attached to the City's computer

system or network.

The City will not supply mobile devices, including computers, based solely on the desire of employees to work offsite. A business need will be required for each mobile device deployment and must be approved by the Department Head. In general, mobile devices will only be issued to employees who: regularly use their device offsite; require a device for access to special software or systems; have a documented business need for a device; and/or require the use of a device while traveling.

Employees are responsible for the proper use and care of City-owned computer equipment. City employees are expected to provide reasonable security to all City-owned computers and related equipment. This includes ensuring that passwords comply with this policy. Removable media must be kept in a secured area. Non-public, private, and/or confidential data must not be displayed in such a manner that unauthorized personnel or others can view or access it. All City-owned computers and related equipment must be secured while off City premises. For instance, employees must not leave computer equipment in an unlocked vehicle or unattended at any offsite facility. Computer equipment must not be exposed to extreme temperature or humidity.

Software

In general, the City will provide the software required for an employee to perform their job duties. Requests for new or different software should be made the Department Head, who may consult with IT staff.

Unapproved software or downloads (free or purchased), games, screen savers, toolbars, clipart, music/audio, and movie/video clips, that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited.

Employees shall not download or install any software (free or purchased) or addons (such as toolbars or clipart) on any City computer or related device without the prior approval of the IT staff. The only exceptions to this policy are updates to software previously approved by IT such as anti-virus, anti-malware, etc. IT staff may, without notice, remove any unauthorized programs or software, downloads, or other files on any City computer, related equipment, network, or electronic resource.

Electronic Mail

The City provides most employees with an email account for work-related use. Minimal personal use of the City email system by employees is allowed, provided it does not interfere with an ~~employee's~~employee's work and is consistent with all City policies. Using the City's email to participate in any kind of personal listservs or mailing list is

prohibited.

Employee emails, including those that are personal in nature, may be considered “public” data for both e-discovery and information requests and may not be protected by privacy laws. Personal e-mail transmitted through or saved on the City’s e-mail system, computers, network, or other technological resources, may also be monitored as directed by the City Administrator or BPU Commission (for BPU employees only) and without notice to the employee.

In addition, employees must adhere to these email guidelines:

- Do not open email attachments or links from an unknown sender. Review ~~sender’s~~ sender’s email address, date/time, subject line, and name and file type of attachments to verify legitimacy/relevance. Delete junk or ~~“spam”~~ “spam” email without opening. Do not respond to unknown senders.
- Never transmit an email that you would not want your supervisor, other employees, members, city officials, or the media to read or publish (e.g., avoid gossip, personal information, profanity, etc.).
- Use caution or avoid corresponding by email on confidential communications (e.g., letters of reprimand, correspondence with attorneys, medical information).
- Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.
- Employees’ email use must otherwise comply with all applicable provisions of this policy, all other applicable City policies, and all applicable laws.

Electronic Calendars

A shared calendar environment is provided as part of the ~~City’s~~ City’s email software program. All employees are encouraged to keep their electronic calendar up ~~to~~ to date and may grant relevant staff the ability to view their calendar. All employees are encouraged to utilize the out ~~of~~ of office automatic replies for known absences.

Phone/Voicemail

Voicemail that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network for storage. All other voicemails should be deleted from the voicemail system (and email system) when no longer needed. Voicemail may be considered “public” data or otherwise subject to disclosure in accordance with the MGDPA. Employees should contact IT staff with any questions about voicemail storage and/or deletion.

Presence/Instant Messaging

Employees who are provided with the ~~City's~~City's presence / instant messaging (IM) software should remain logged in when working and may utilize it for communications between City staff. Instant messaging may be considered “public” data, or otherwise subject to disclosure in accordance with the MGDPA and must be kept in accordance with the City's records retention requirements if they constitute an official record of City business. Employees are not allowed to download or install any unapproved messaging software on City devices.

Intranet (~~Sharepoint~~)

Employees should keep the City's Intranet (~~Sharepoint~~) as their web browser home page and are encouraged to utilize the documents, announcements, links, and calendars to remain informed and share information with other staff.

Storing and Transferring Files

If you are unsure whether an email or other file is a government record for purposes of records retention laws or whether it is considered protected or private data under the MGDPA or other law, you must check with the City Administrator or applicable BPU Department Head (for BPU employees only) before deleting or releasing the information or file in question. If you are unsure how to create an appropriate file structure for saving and storing electronic information, contact IT staff.

Employees must adhere to these guidelines when transferring and storing electronic files:

- All electronic files should be stored on network drives or approved web or cloud-based storage locations. IT staff will not back up documents stored on local computer hard drives and hold no responsibility for recovery of documents on local computer hard drives should they fail. Subject to the provisions of this policy, files may be temporarily stored on a mobile device when an employee is offsite; however, the files should be copied to an approved storage location ~~when-as~~when possible.

- Electronic files created on an ~~employee's~~ personal device or computer must not be transferred to the ~~City's~~ network. City-related files should not be created or stored on an ~~employee's~~ personal device or computer.
- All removable storage media (e.g., CDs, flash or USB drive, or other storage media) must be verified to be virus-free utilizing an IT approved process before being connected to City equipment.
- Email that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network or other approved location for storage.
- Email that is simple correspondence and not an official record of City business should be deleted when no longer needed.
- Electronic files or emails that contain nonpublic, private, or confidential data should be stored in a location on the ~~City's~~ network that is properly secured.

Any files containing nonpublic, private, or confidential data should not be stored anywhere other than the ~~City's~~ network or other approved location. Employees must obtain the prior approval of the Department Head before taking any file containing nonpublic, private, or confidential data offsite.

Personal Devices

Employees with prior approval may choose to use their own equipment to read or compose email or other City data as governed in this policy. Employees understand that by connecting their personal equipment to the ~~City's~~ email system, their personal devices could be searched during an e-discovery or other court-ordered scenarios and agree to grant access to their personal devices should such a situation arise.

Passwords

Employees are responsible for maintaining computer/network passwords and must adhere to these guidelines:

- Passwords must meet minimum complexity requirements designated by IT staff. Employees must change passwords when prompted or as scheduled by IT Staff.
- Multi-factor authentication methods should be used when available for web/cloud-based applications. Multi-factor authentication is an additional layer of security beyond just a username/password and generally requires a code or acknowledgement on a physical device or a code sent by a separate means of communication.
- Passwords should not be shared with anyone including other staff. If it is necessary to access an ~~employee's~~ computer when they are absent, contact your supervisor; IT staff will not provide access to staff accounts without prior approval.
- Passwords should not be stored in any location on or near the computer or stored electronically such as in a cell phone or other mobile device unless properly secured.

Computers and other devices should not be left unattended while a user is logged in—either lock the computer when away (Win+L or Ctrl+Alt+Del) or use a timed screen saver that will require a password to unlock upon return.

Network Access

Non-City-owned computer equipment used in City buildings should only use the public wireless connection to the Internet. Under no circumstances should any non-City-owned equipment be connected to the ~~City's~~ computer network wirelessly or via a network cable.

Exceptions may be granted by IT staff.

Personal computer equipment may not be connected to the ~~City's~~ network without prior approval of the IT staff. Personal equipment may be subject to password requirements or other electronic security measures as determined by IT staff.

Staff shall not attempt to circumvent or disable firewalls, anti-virus/anti-malware software, software updates and patches, network/computer security settings, or any other measures put in place to protect the network. If access to necessary resources is obstructed, notify supervisor and/or IT staff to explore options.

Remote Access to the Network

Examples of remote access include, but are not limited to: Virtual Private Network (VPN), TeamViewer, and Windows Remote Desktop connections. While remotely connected to City computer resources, all aspects of this Technology Use Policy will apply, including the following:

- Telework opportunities and remote access to the City's network requires a job specific reason and/or a request from a supervisor to the City Administrator. Remote access privileges may be revoked at any time by an employee's supervisor, Department Head, the City Administrator or IT staff.
- If remote access is from a non-City-owned computer, updated security software (anti-virus and anti-malware) must be installed and operational, and all critical operating system updates must be installed prior to connecting. Failure to comply could result in the termination of remote access privileges.
- Remote access/assistance from third parties is not allowed without prior approval from IT staff. When remote access/assistance from a third party is granted, their activities must be monitored by City Staff.
- Recreational use of remote connections to the City's network is strictly forbidden. An example of this would be a family member utilizing a City's cellular data connection to access the internet.
- Private or confidential data should not be transmitted over an unsecured wireless connection. Wireless connections that are not secure could pose a security risk if used to transmit passwords or private data. Unsecure wireless connections may include cellular networks and wireless access points unless proper security protocols are in place.

Security Compromise

If a virus or malware is suspected on any City device, IT staff must be notified immediately. Any other indications of computer or network security compromise must be reported to IT staff immediately.

Internet

The internet is available to employees for research, education, and communication directly related to the mission, charter, and tasks of the City. Users must honor copyright laws regarding protected commercial software and intellectual property. Users accessing the internet through the City's computers and related equipment should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource. Users are also responsible for adhering to City standards when browsing the internet. Failure to adhere to City standards puts the City

and the individual at risk of legal or financial liabilities, potential embarrassment, and other consequences, including immediate termination of employment and other disciplinary actions. The following considerations apply to all uses of the Internet:

- Information found on the Internet and used for City work must be verified to be accurate and factually correct.
- Approved web browsers include Microsoft Edge, Mozilla Firefox, Apple Safari, and Google Chrome. Usage of other browsers requires prior authorization from IT staff.
- Browsing history including cookies, passwords, and temporary files should be cleared from web browsers frequently or set to automatic delete.
- Limited personal use of the Internet is permitted. Employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races, or religions. If you are unsure whether a site may include inappropriate information, you should not visit it.
- City data should not be stored in any web or cloud-based application that has not been provided or approved by IT staff.
- If an employee's use of the internet is compromising the integrity of the City's network, IT staff may temporarily restrict that employee's access to the internet. If IT staff does restrict access, they will notify the employee and the employee's supervisor as soon as possible, and work with the employee and supervisor to rectify the situation.

- Social media use on City owned computers should be limited to maintaining the ~~City's~~City's social media presence. Personal use of social media on City owned computers is discouraged.
- Peer-to-peer software/applications are not permitted.
- All staff internet use must comply with all applicable provisions of this policy, all other applicable City policies, and all applicable law.

The City may monitor or restrict any ~~employee's~~employee's use of the internet without prior notice, as deemed appropriate by the ~~employee's~~employee's supervisor, the City Administrator, or IT staff.

Personal Social Networking on City-Owned Devices

Employees should not use City-owned devices to post to personal sites, including social networking sites. Employees' personal use of City-owned devices should be minimal and must not interfere with their work duties. All personal social networking and other personal use of the City-owned devices must comply with the terms of this policy.

Personal Social Networking While Off Duty and the City's Responsibility

The City of Brainerd has a duty to protect the reputation of the organization and its employees as well as guard against any liability and potential legal risk regardless of when and where social networking activity occurs. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. With this in mind, employees must use social media (Facebook, ~~X~~(Twitter), blogs, YouTube, etc.) in a manner that follows the following guidelines:

- Individuals should exercise caution and good judgment when social networking.
- Individuals shall not represent that they are speaking or acting on behalf of

the City or presenting any interests of the City.

- Individuals are not permitted to display the City of Brainerd logo on any part of their online profiles.
- Individuals never have the right to post non-public, private, or confidential data, such as information related to co-workers personnel data, medical information, or claims or lawsuits against the City, without obtaining the express written consent of the data subject and/or City Administrator as appropriate.
- Individuals who use personal social media accounts are not immune from the law. In general, all users of social networking should be aware that the content of these social networking sites can be subpoenaed and used in criminal and civil trials.
- Individuals need to be aware that they have no reasonable expectation of privacy when social networking and use of personal social media accounts are subject to all pertinent City policies, as well as local, state and federal laws.
- The City of Brainerd expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.

- Personal social media account name or email names should not be tied to the city (e.g., Brainerd Cop).
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.

ARTICLE 32. SOCIAL MEDIA POLICY

The City has adopted a Social Media Policy, separate from the Employee Policy Manual. The Social Media Policy describes the rules and procedures for the administration of City social media accounts. Copies can be obtained from the Human Resources Department.

ARTICLE 32. TELECOMMUTING/REMOTE WORK POLICY

The City has adopted a Telecommuting/Remote Work Policy, separate from the Employee Policy Manual. The Telecommuting/Remote Work Policy describes the situations in which qualifying employees may be allowed to work from home and the conditions on any opportunity to work from home afforded to any employee. Copies can be obtained from the Human Resources Department.

ARTICLE 33. QUESTIONS OR CONCERNS

All employees are required to be familiar with, and abide by, the terms of these policies. Department Heads and the Human Resource Director are ready to answer questions, or to further explain and obtain information about any phase of this manual which is not clear. All employees should feel free to ask questions of their Department Head, the Human Resource Director, and the City Administrator.

Reviewed and adopted by the City Council

Date: **August 1, 2022**

Commented [KS8]: Updated with new Council approval date

ACKNOWLEDGMENT

I acknowledge that I have received a copy of the City of Brainerd Personnel Policy. I understand that this document contains important information regarding the ~~City's~~City's general personnel policies and my privileges and obligations as an employee. I will familiarize myself with the personnel policy and I understand that I am governed by its contents. I further understand that the personnel policy is not an employment contract and that the City may change, rescind or add to any policies, benefits, or practices at its sole discretion with or without prior notice.

Employee Signature Date

Employee Printed Name Department

EXHIBIT A

HEALTHCARE INSURANCE PREMIUM CONTRIBUTIONS

- CITY ADMINISTRATOR, DEPARTMENT HEADS, AND SUPERVISORS:

The following premium splits and Employer HSA contributions will be effective for ~~our 2021-2023~~ our 2024 High Deductible Health Plan Smart Plan options:

Smart Plan #1 - \$1,400 Health Plan	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 1,000	\$ 1,000
Family	\$ 2,137	\$ 1,500	\$ 1,500

Smart Plan #3 = \$2,800 Health Plan	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 2,000	\$ 2,000
Family	\$ 2,137	\$ 2,500	\$ 2,500

Smart Plan #7 - \$7,000 Health Plan	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	100%	100%
Family	80%	90%	90%
<u>Employee</u>			
Single	5%	0%	0%
Family	20%	10%	10%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 2,500	\$ 2,500
Family	\$ 2,137	\$ 3,000	\$ 3,000

Smart Plan #1 - \$1,600 **2024**

% of Contribution to Monthly Premium

Employer

Single 95%

Family 80%

Employee

Single 5%

Family 20%

HSA Annual Contribution

Employer

Single \$1,000

Family \$1,500

Smart Plan #3 - \$3,200 **2024**

% of Contribution to Monthly Premium

Employer

Single 95%

Family 80%

Employee

Single 5%

Family 20%

HSA Annual Contribution

Employer

Single \$2,000

Family \$2,500

Smart Plan #7 - \$6,150 2024

% of Contribution to Monthly Premium

Employer

Single 97%

Family 85%

Employee

Single 3%

Family 15%

HSA Annual Contribution

Employer

Single \$2,250

Family \$2,750

Smart Plan #8 - \$8,050 2024

% of Contribution to Monthly Premium

Employer

Single 100%

Family 90%

Employee

Single 0%

Family 10%

HSA Annual Contribution

Employer

Single \$2,500

Family \$3,000

All plans are automatically indexed annually.

- All additional employer HSA contributions amounts noted above will be pro-rated based on a monthly contribution.
- ~~The City will front-load the first three months of the additional Employer HAS contribution for all employees by January 31st of each year. Thereafter (effective April 1st), the amount will return and remain as a monthly contribution.~~
- The City will provide an Opt-Out Option for eligible employees in lieu of the city's health insurance for 2024~~1, 2022 and 2023~~. If the eligible employee elects the Opt-Out payment for 2021, the monthly Opt-out taxable payment will be \$315 per month. If the eligible employee elects the Opt-Out payment for 2022 or 2024~~3~~, the monthly Opt-out taxable payment will be \$400 per month.
- The base City health insurance plan for union contract comparison is Smart Plan No. 3 (\$3~~the embedded \$2,280~~0 High Deductible Health Insurance Plan for 2024).

- The City will pay 100% of the single and family premium for the Department Heads and Supervisors hired or promoted to such a position before May 1, 2010.

ELECTED OFFICIALS/BRAINERD PUBLIC UTILITIES (BPU) COMMISSIONERS:

~~Health insurance options for this group includes the following City contributions for the City-sponsored High-Deductible Health Insurance plans:~~

~~100% of the premium if single health coverage is elected.
80% of the premium if family health coverage is elected.~~

- Health insurance options for this group includes the following City contributions for the City-sponsored base health insurance plan (Smart Plan No 3 - \$3,200 Deductible Plan for 2024):

- 100% of the premium if single health coverage is elected.
- 80% of the premium if family health coverage is elected.

- If a member of this group elects a different health plan, the individual will pay the premium difference based on the premium split for the base plan as set forth in the previous bullet.
- If someone is covered by a different group plan and is eligible to receive the City's Opt-Out payment, individuals in this group can elect to receive \$250 per month as taxable income in lieu of the health insurance benefit.

The City's contribution for all other employees is set in the applicable collective bargaining agreement and/or Council resolutions.

The City provides insurance coverage for former City employees including retirees on a self-pay basis pursuant to state law. Please refer to your Group Insurance Plan booklet for a complete description of benefits.

EXHIBIT B

LONG-TERM DISABILITY COVERAGE AND LIFE INSURANCE

- I. **Long-Term Disability Coverage.** Should an employee become disabled as a result of a non-occupational injury or illness, the City will provide long-term disability coverage to cover 50% of your gross monthly income to a maximum of ~~\$5,417~~\$7,084 per month. This plan takes effect the 1st day of the month coincident with or next following six months of continuous employment.
- II. **Face Amount of Life Insurance for Certain Employees and Elected Officials.** Consistent with the Policy Manual, the City will provide life insurance coverage to elected officials, Department Heads, Municipal Utility Division Managers, and non-union supervisors in the following amounts: Mayor, City Council and Public Utilities Commission \$50,000; City Administrator, ~~and~~ Department Heads and Municipal Utility Division Managers \$100,000; Non-union supervisors \$50,000.

Commented [KS9]: This change was approved by the City Council on 8/21/23.

Employees should review the applicable Summary Plan Descriptions for additional details for said policies.

EXHIBIT C

MINNESOTA HEALTH CARE SAVINGS PLAN CONTRIBUTIONS

All funds collected by the City on behalf of the employee for purposes of contributing to the Minnesota Health Care Savings Plan will be deposited into the employee's individual health care savings plan account as follows:

1. City Administrator, ~~and~~ Department Heads and Municipal Utility Division Managers:
 - a) Employees eligible for severance pay as outlined in ARTICLE 2713 of the City Employee Policy Manual will contribute 100% of their severance pay into the Plan.
 - b) Employees with 0 to 4 years of service will contribute 1% of gross pay each payroll period.
Employees with 5 to 9 years of service will contribute 1.5% of gross pay each payroll period.
Employees with 10 to 14 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 to 19 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 or more years of service will contribute 5% of gross pay each payroll period.
 - c) 50% of sick leave and ESST accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Health Care Savings Plan contribution.
 - d) 100% of accumulated vacation at retirement will be paid into the Plan.
2. Non-Contract Supervisors:
 - a) Employees eligible for severance pay as outlined in ARTICLE 2713 of the City Employee Policy Manual and have 25 years or more of service, will contribute 100% of their severance pay into the Plan.

Commented [KS10]: This change was approved by the City Council on 8/21/23.

- b) Employees with 0 to 10 years of service will contribute 1% of gross pay each payroll period.
Employees with 10 to 15 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 – 20 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 - 25 years of service will contribute 4% of gross pay each payroll period.
Employees with 25+ years of service will contribute 5% of gross pay each payroll period.
- c) 50% of sick leave and ESST accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's post-employment health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Post Employment Health Care Plan contribution.
- d) 100% of accumulated vacation at retirement will be paid into the Plan.
- e) ~~100% of the City of Brainerd's Early Retirement Incentive Program (ERIP) payment will be paid into the Plan.~~

EXHIBIT D

Earned Sick and Safe Time Employee Notice

Employees in Minnesota are entitled to earned sick and safe time, a form of paid leave. Employees must accrue at least one hour of earned sick and safe time for every 30 hours they work, up to at least 48 hours in a year. A year for purposes of the employee's earned sick and safe time accrual is a calendar year.

The earned sick and safe time hours the employee has available, as well as those that have been used in the most recent pay period, must be indicated on the employee's earnings statement that they receive at the end of each pay period. Earned sick and safe time must be paid at the same hourly rate employees earn from employment. Employees are not required to seek or find a replacement for their shift to use earned sick and safe time. They may use earned sick and safe time for all or part of a shift, depending on their need.

Earned sick and safe time can be used for:

- an employee's mental or physical illness, treatment or preventive care;
- the mental or physical illness, treatment or preventive care of an employee's family member;
- absence due to domestic abuse, sexual assault or stalking of an employee or their family member;
- closure of an employee's workplace due to weather or public emergency or closure of their family member's school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that an employee or their family member is at risk of infecting others with a communicable disease.

Notifying employer, documentation

An employer can require their employees to provide up to seven days of advance notice when possible (for example, when an employee has a medical appointment scheduled in advance) before using sick and safe time. An employer can also require their employees to provide certain documentation regarding the reason for their use of earned sick and safe time if they use it for more than three consecutive days.

If an employee plans to use earned sick and safe time for an appointment, preventive care or another permissible reason they know of in advance, inform your supervisor by as far in advance as possible, preferably seven (7) calendar days, and shall schedule appointments so as to have the least impact on the business of the employer. In situations where an employee cannot provide advance notice, the

employee should contact their supervisor as soon as they know they will be unable to work.

Please ask the HR Department for a copy of the Earned Sick and Safe Time Policy for more information.

Retaliation, right to file complaint

It is against the law for an employer to retaliate, or to take negative action, against an employee for using or requesting earned sick and safe time or otherwise exercising their earned sick and safe time rights under the law. If an employee believes they have been retaliated against or improperly denied earned sick and safe time, they can file a complaint with the Minnesota Department of Labor and Industry. They can also file a civil action in court for earned sick and safe time violations.

For more information

Contact the Minnesota Department of Labor and Industry's Labor Standards Division at 651-284-5075 or dli.laborstandards@state.mn.us or visit the department's earned sick and safe time webpage at dli.mn.gov/sick-leave.

EXHIBIT E

Nursing Mothers, Lactating Employees, and Pregnancy Accommodations employee notice

Minnesota's Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law (Minnesota Statutes § 181.939) gives pregnant and lactating employees certain legal rights.

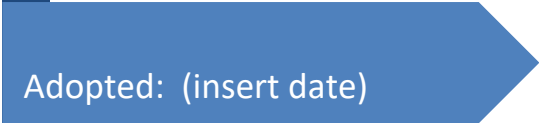
Pregnant employees have the right to request and receive reasonable accommodations, which may include, but are not limited to, more frequent or longer breaks, seating, limits to heavy lifting, temporary transfer to another position, temporary leave of absence or modification in work schedule or tasks. An employer cannot require an employee to take a leave or accept an accommodation.

Lactating employees have the right to reasonable paid break times to express milk at work unless they are expressing milk during a break that is not usually paid, such as a meal break. Employers should provide a clean, private and secure room that is not a bathroom near the work area that includes access to an electrical outlet for employees to express milk.

It is against the law for an employer to retaliate, or to take negative action, against a pregnant or lactating employee for exercising their rights under this law.

Employees who believe their rights have been violated under this law can contact the Minnesota Department of Labor and Industry's Labor Standards Division at dli.laborstandards@state.mn.us or 651-284-5075 for help.

Employees also have the right to file a civil lawsuit for relief. For more information about this law, visit dli.mn.gov/newparents.



Adopted: (insert date)

Employee Policy Manual

City of Brainerd

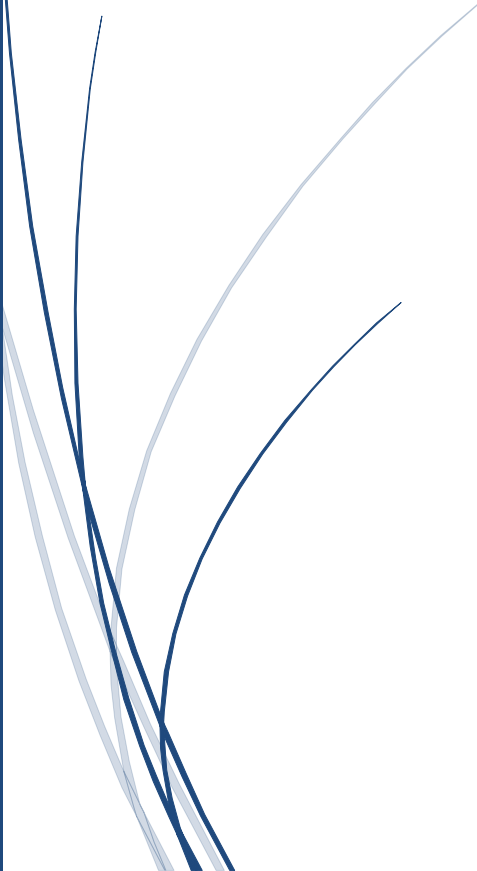


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ARTICLE 1. PURPOSE

Section 1.01 Policy Statement

The City Council of the City of Brainerd ("City") deems it advisable to establish a policy governing the relationship between the employees and the City, and to provide procedures for its administration. In the formation of this policy, the Council recognized that the City is a political subdivision of the State of Minnesota and the Employee Policy Manual must conform to applicable law. Within this framework, the Council can establish governing principles upon which a progressive, comprehensive and efficient program of employee relations may be based.

Section 1.02 General

The purpose of this manual is to help you to better understand the policies and procedures which affect and guide your employment with the City of Brainerd. These policies are not and cannot be construed as contract terms, a guarantee of continued employment, or terms and conditions of employment. This manual replaces, revokes, and supersedes any previous personnel policies, interpretations, and practices. This manual is only valid until amended or replaced by the City Council.

This manual is not intended to cover all circumstances that might arise. Employees should become thoroughly familiar with the provisions of this manual within ten (10) business days of their receipt of this manual. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment, meaning that such employment may be terminated by the employee or the City at any time, for any legal reason or no reason at all.

Section 1.03 Amendment to Policy

The City reserves the right to modify, revoke, suspend, or change the language of this personnel policy handbook or any individual policy or policies, in whole or in part, at any time, with or without notice, at the City Council's sole discretion.

Section 1.04 Equal Opportunity and Affirmative Action

The City of Brainerd is an Equal Opportunity Employer. The City will comply with all applicable laws governing equal employment opportunity and affirmative action. This policy extends to all applicants and employees and to all aspects of the employment relationship including, but not limited to, recruiting, hiring, promotion, transfer, and compensation.

Specifically, the City of Brainerd will provide equal employment and advancement opportunity on the basis of merit within the context of its unique business environment and without regard to race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

The Human Resource Director is the designated Equal Employment Opportunity/Affirmative Action Coordinator who has been charged with ensuring that the City of Brainerd's EEO/AA policies are carried out.

If any employee, or applicant for employment, believes he/she has been discriminated against, please contact the Human Resource Director at 501 Laurel Street, Brainerd, MN 56401 or call (218) 828-2307.

ARTICLE 2. SCOPE OF POLICY

Section 2.01 Personnel Covered

This manual generally applies to all City employees, including probationary employees, appointed officials, and elected officials, except to the extent that this manual conflicts with applicable law or collective bargaining agreements. Certain provisions of this manual may be inapplicable to the following individuals:

- A. All elected officials;
- B. Members of City boards, commissions and committees;
- C. Volunteer personnel and emergency employees;
- D. Consultants and/or contracted personnel.

Section 2.02 Employees Covered by Labor Contracts

All provisions of this policy apply to employees covered by collective bargaining agreements, except when such provisions are in conflict with collective bargaining agreement provisions, in which case, such provisions of the collective bargaining agreement shall control.

ARTICLE 3. INTERPRETATION

The purpose of this manual is to provide a basis for the safe, orderly, and disciplined employment environment. This policy is intended to promote knowledge of what is expected of personnel generally, which should result in a greater degree of self-assurance in all positions. In relationships between positions, it should be each City

employee's individual aim to build mutual respect and confidence which is essential to local government service.

To the extent that any federal, state, or local law, ordinance, rule, or regulation conflicts with any policy or policies herein, the applicable law, ordinance, rule, or regulation shall control. To the extent that any federal, state, or local law, ordinance, rule, or regulation imposes stricter requirements on an area governed by these policies, the applicable law, ordinance, rule, or regulation shall control.

Additional information or clarification as to each ARTICLE of this personnel policy may be obtained from your supervisor, department head or the Human Resources Department. This manual is only a start in our communication network because the City maintains a continuous process of communicating policies and benefits to all staff members. The text of this manual, however, takes precedence over and controls any inconsistent communication from any City employee or elected official.

This manual summarizes the various policies and benefits currently provided by the City. Nothing contained in this personnel policy or in any other City document, and nothing said or done by a City employee, is, or can be construed as an employment contract between the City and an employee, as a guarantee of continued employment, or terms and conditions of employment. The City and the employee both have the right to terminate the employment relationship at any time, for any legal reason or no reason at all. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment.

ARTICLE 4. IMPLEMENTATION OF THIS POLICY

It is the responsibility of all Department Heads and Supervisors to ensure implementation of this policy. Failure of any employee to perform in a manner consistent with this policy, State or federal Law will be grounds for discipline, up to and including immediate termination.

The City Administrator is hereby given authority for the administration of the policies contained in this manual, as directed by the City Council.

ARTICLE 5. GENERAL INFORMATION

Section 5.01 Data Practices Advisory

In accordance with the Minnesota Government Data Practices Act ("MGDPA"), the City is required to inform employees of their rights as they pertain to any private information that the City collects from them. During the course of City employment, an employee will likely be asked to provide information which is classified by state law as either private or

confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data. Much of the data the City has about individual employees, however, is classified as public according to Minnesota Statutes, ARTICLE 13.43, Sections 2 and 3 (as amended). Consistent with the relevant provisions of the MGDPA, all public data is available for inspection and copying by members of the public, with or without the employee's consent.

Information about employees requested by the City may be used for the following purposes: (1) to process payroll, including accounting for wages and fringe benefits and to justify any reimbursed expenses; (2) enroll in benefit programs and pension plans; (3) evaluate the employee's job performance, eligibility and abilities; (4) distinguish the employee from other applicants and employees and identify the employee in the correct personnel file; (5) determine the employee's eligibility for employment or promotion, and make employment decisions about the employee's performance; (6) contact the employee or other significant persons in case of an emergency; (7) compile equal opportunity and any affirmative action reports required by applicable law; (8) make decisions regarding the employee's eligibility for sick leave, family and medical leave, parenting leave, and other available leave; (9) make decisions regarding the employee's eligibility for workplace accommodations, including accommodations for disabilities; (10) comply with workers compensation requirements in the event of an injury; and (11) provide information during workplace investigations. Such information may also be used and disclosed for other purposes consistent with applicable law. The information provided by the employee may be used in performance evaluations, determinations regarding merit pay, applications for different employment positions, and other matters which involve a review of the employee's personnel file and past performance.

Unless the employee is told otherwise, the employee is required to provide this information. If the employee refuses to supply the information, the employee may face disciplinary action. Any information which the employee is required to provide cannot be used against the employee in a criminal proceeding. Even if the employee is not required to provide information, it is generally to the employee's best interest to provide it. Without the requested information, the City may not be able to determine the employee's eligibility for employment opportunities, compute wages, or grant the employee other benefits. The employee's refusal to provide information during an employment investigation may also necessitate that the investigation be completed without his or her input.

Federal law permits government agencies to require individuals to provide their social security number for the administration of any tax. Please be aware that when an employee is asked to give his or her social security number on revenue forms, this collection is mandated by law. This information will be shared with the Minnesota Department of Revenue, the Internal Revenue Services, and security tax programs. In most other cases, the disclosure of an employee's social security number is voluntary.

Any information an employee is asked to provide may be shared with individuals within the City whose job duties reasonably require access, as well as individuals outside of the City whose duties require access, such as insurance vendors, consultants, attorneys, and retirement plan employees. Information may also be shared with other agencies authorized by law to receive specific data.

If litigation arises, some or all information may be provided in documents filed with the court which are available to any member of the public. If it is reasonably necessary to discuss the information at an open City Council meeting, some or all data may be available to members of the public. To the extent that some or all of the information is part of the basis for a final decision on disciplinary action, that information may become public, as provided in Minnesota Statutes, ARTICLE 13.43 (as amended).

Section 5.02 Conduct as a City Employee

A. Scope of Policy

It is the policy of the City of Brainerd to maintain a respectful work and public service environment free from violence, discrimination, and offensive or degrading remarks or conduct. Preserving a respectful environment in which to work is the shared responsibility of both management and employees. Inappropriate conduct or communication can interfere with an individual's employment or use of public services, or create an intimidating, hostile or offensive work environment. Any employee found to have acted in violation of this policy shall be subject to appropriate disciplinary action, which may include dismissal from employment.

This policy governs the conduct of all City employees, including; union, non-union, supervisory, non-supervisory, managerial, full-time, part-time and temporary employees; and members of City boards and commissions. This policy is also applicable to City elected officials.

In addition, employees are also expected to comply with ARTICLE 26 of this Manual, which prohibits harassment and inappropriate conduct.

B. Definitions of Prohibited Behaviors

Violent behavior includes the use or threat of physical force, harassment, or intimidation, or abuse of power or authority when the impact is to control others by causing pain, fear or hurt.

Discriminatory behavior includes inappropriate remarks about or conduct related to an individual's race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation (including gender identify and expression), status with regard to public assistance, or any other characteristic protected by state or federal law, including behavior specifically prohibited by ARTICLE 26 of these policies.

Offensive behavior may include, but is not limited to, such work-related actions as rudeness, exclusionary behavior, creating or displaying graphics depicting co-workers or customers inappropriately, angry outbursts, inappropriate joking, vulgar obscenities, name calling, disrespectful language, or the intentional filing of an unfounded complaint under this policy.

C. Expected Conduct of City Employees

1. City Employee Conduct in General

Employees of the City shall conduct themselves as professional representatives of the City at all times while on duty or on the employer's premises, and that employees will represent the City in such a manner as to reflect most favorably on the City. Conduct unbecoming a City employee shall include any conduct that tends to bring the City into disrepute or reflects discredit on the person as an employee of the City, or that which tends to impair the functioning of an employee, a department, or the City.

Your conduct as a City employee is an extremely important part of your job. You are a representative of our City, and as such, the way you perform your job and your neat and clean appearance reflects upon our entire organization. Your willingness to assist people, to courteously and accurately respond to their questions or complaints, and to refer them to the proper source when you are unable to solve their problems, are all important facets of your position with the City and impact upon each member of our staff.

2. Conduct in Dealing with the Public

a. Expected Public Interaction.

While representing the City, employees shall be professional and courteous to all members of the public and City customers. They shall be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion. They shall not engage in argumentative discussions, even in the face of extreme provocation. They shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color,

religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law, or other personal characteristics.

b. Interaction with an Abusive Customer.

In the event a member of the public or City customer becomes abusive on the phone or in person, employees should refrain from escalating the situation and if possible, employ tactics to defuse the situation, e.g. lower the voice, ask the person to sit down. If the situation doesn't improve, the employee can refer the person to a supervisor or request that a police officer be called to the scene. Employees are not required to continue telephone or in-person conversations in which the caller uses profanity or threats. In those situations, the employee should refer the call to a supervisor or inform the caller, as courteously as possible, that the employee is hanging up and will talk with the caller after the caller has calmed down.

c. Media Requests

Requests for data must be directed to the designated responsible authority. Requests for information outside of the scope of an individual's job duties must be routed to the appropriate department head.

Any employee who identifies a mistake in a communication by the City should bring the error to the City Administrator. Regardless of whether the communication is in the employee's official City role or in a personal capacity, employees must comply with all laws related to data privacy, trademark, copyright, software use, and other laws governing the employee's communication.

Except for routine events and basic information readily available to the public (e.g., dates and locations of City Council meetings or City-sponsored events), all requests for interviews or information from the media must be routed through the City Administrator. No employee is authorized to speak on behalf of the City without prior authorization from the City Administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites.

When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the City Administrator of the request.
2. If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the City Administrator. An appropriate response may be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the

appropriate person, who will get back to you as soon as he/she can.” Then ask the media representative’s name, questions, deadline, and contact information.

All news releases concerning City personnel will be the responsibility of the City Administrator, or designee.

When/if the City Administrator authorizes a staff person to communicate on behalf of the City in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the City. Account names on social media sites must be clearly connected to the City and approved by the City Administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: For example, the employee could state that, “The City finished street cleaning on 16 streets in the northwest corner of the City this past week” instead of “The City is doing a great job with street cleaning this year!” Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the City’s Facebook page: “My family visited Gregory Park this weekend and really enjoyed the new band shelter.” Employees who have been approved to use social media sites on behalf of the City should review the City’s Social Media Policy, separate from this policy manual, and seek assistance from the City Administrator on this topic.
- Notify the City Administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for City business. Employees should be aware that data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

d. Personal Communications and Use of Social Media

It is important for employees to remember that the personal communications of employees may reflect on the City, especially if employees are commenting on City business or commenting on issues that implicate their City employment. As City representatives, employees share in the responsibility of earning and preserving the public’s trust in the City. An employee’s own personal communications, such as on social media, can have a significant impact on the public’s belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability,

status with regard to public assistance, or any other characteristic protected by state or federal law.

Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook; X, formerly known as Twitter; blogs; YouTube; etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the City's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- While representing the City or working on behalf of the City, regardless of the location or event at which the work is taking place, all employees are expected to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the City. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the City, it would be best to identify yourself and use a disclaimer such as, "These are my own opinions and do not represent those of the City of Brainerd."
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector is not permitted to use the city's logo, email, or

working time to promote his/her side business as a plumber; a parks employee should not access a park after hours for personal purposes even though he or she may have a key; a clerk, during work hours at City Hall, should not campaign for a friend who is running for City Council.

- Personal social media account name or email names should not be tied to the City (e.g., (Brainerd Cop).

3. Conduct Between Employees

a. Expectations of Cooperation and Respect

Employees shall cooperate with and be courteous to co-workers at all levels. While everyone is entitled to their feelings, they are not entitled to act on their feelings inappropriately in the workplace. Employees shall control their tempers and refrain from behaviors that are hostile, offensive, intimidating, degrading, or exploitative. Inappropriate displays include, but are not limited to: slamming doors, pounding tables, kicking furniture, unwanted physical contact of any nature, making threats, berating or belittling others, speaking in raised voices, using coarse, violent or profane language or gestures, refusing to speak or respond when spoken to, and refusing to provide assistance when requested.

Employees shall treat each other with respect. They shall refrain from making remarks about or using nicknames for other employees that are disparaging or based on a personal characteristic; producing cartoons or other graphics displaying other employees in an unfavorable light; communicating threatening or disparaging remarks via any medium (voice, e-mail, notes, etc.); engaging in unwanted horseplay or practical jokes; failing to relay written, verbal or telephone messages; unwanted, unwarranted physical contact of any nature, including “roughhousing” such as punching in the arm, pinching, arm twisting, etc., and other, similar unwanted conduct.

b. Workplace Violence

The City is committed to creating and maintaining a workplace that is free from violence. Employees are strictly prohibited from engaging in any threatening or violent behavior while on City premises, while operating vehicles for work related reasons, while engaged in City business off premises, while at any City sponsored activity, or while otherwise representing the City.

Specific examples of conduct that may be considered threats or acts of violence under this policy include, but are not limited to, the following:

- Threatening physical or aggressive conduct directed toward another individual.
- Threatening an individual or his/ her family, friends, associates, or property with physical harm.

- The intentional destruction or threat of destruction of City property or another's property.
- Harassing or threatening phone calls, letters, or e-mails.
- Surveillance or stalking.
- Veiled threats of physical harm or similar intimidation.

Employees have a responsibility to help keep the municipal buildings safe and free of violence. Employees should inform their supervisor of any workplace situations that violate this policy, even if the threat is presented as "only a joke". Supervisors are responsible for taking immediate steps to avoid workplace violence from occurring and subsequently report such information to City Administration. Any employee who engages in threatening behavior or acts of violence will be subject to disciplinary action up to and including termination.

For purposes of this policy, the term "workplace violence" does not include actions by law enforcement officers taken in the course of their employment with the City and consistent with applicable law and City policy regarding use of force and law enforcement activities.

D. Reporting Inappropriate Workplace Behavior

Any employee who feels he or she is being subjected to behaviors in violation of this Policy and any employee who witnesses or becomes aware of such conduct, should take the following steps:

1. If possible, politely but firmly tell the person who is behaving inappropriately that you are uncomfortable with or offended by the behavior and ask them to stop.
2. Document in writing for personal reference that describes the inappropriate behavior, the date the inappropriate behavior occurred, how it made you feel, what you did, how the offending party responded, and the names and titles of any witnesses.
3. If confronting the offending party is not practical or possible, or if the person refuses to discontinue the inappropriate behavior, the employee should, adhering to the chain of command, contact someone on the list below verbally or in writing:
 - a. The employee's immediate supervisor
 - b. The employee's department head
 - c. The Human Resource Director
 - d. The City Administrator

Reports of conduct by the Human Resource Director or the City Administrator may be made to the Mayor or the Personnel Committee of the City Council.

When making a report, the complaining party should be prepared to provide the following information:

1. The complainant's name, department and position title.
2. The name, department, and position title of the offending party, if known.
3. The specific facts of the allegedly inappropriate behavior, how long it has allegedly gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) that was supposedly taken against the employee who is filing the complaint.
4. Names of witnesses, if any, to the allegedly inappropriate behavior.
5. Whether the complainant has previously reported the allegedly inappropriate behavior and, if so, to whom.

E. Investigating Complaints of Inappropriate Conduct

The Human Resource Director, the City Administrator, or designee of the City Administrator or Human Resources Director, shall investigate complaints of inappropriate workplace conduct.

The determination of whether inappropriate workplace conduct has occurred will be made on a case-by-case basis. Disciplinary action will also be determined on a case-by-case basis in accordance with these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Employees who are found to have filed bad faith complaints of inappropriate workplace conduct may be subject to disciplinary action as described in the preceding paragraph.

F. Consequences of Engaging in Inappropriate Workplace Conduct

Employees who are found to engage in inappropriate workplace conduct may be subject to disciplinary action, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Supervisors are required to deal swiftly and vigorously with employees who treat others disrespectfully. Any supervisor who condones or allows inappropriate workplace conduct or fails or refuses to respond appropriately to complaints of inappropriate workplace conduct, may be subject to disciplinary action as described in the preceding paragraph, whether or not the supervisor actually engaged in inappropriate workplace conduct.

G. Retaliation for Complaints of Inappropriate Workplace Conduct

All employees are prohibited from retaliating or threatening to retaliate against anyone who complains of inappropriate workplace conduct. Any employee found to engage in retaliatory actions is subject to discipline, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

H. Relationship of Code of Conduct to Harassment Policy.

This policy supplements and does not replace the City's policies prohibiting discrimination, harassment in the workplace, and workplace violence.

Section 5.03 Gifts and Endorsements

No employee shall directly or indirectly solicit, receive, or agree to receive any compensation, "tip," gift, reward, gratuity, payment of expense, or promise of future employment or other future benefit from any source except the City, for any matter or proceeding connected with or related to the duties of the employee. Notwithstanding the above rule, employees may only accept gifts that are specifically allowed by State statute.

Employees and elected officials qualifying as "local officials" pursuant to M.S. 471.895 (as amended) must comply with the terms of that statute.

Section 5.04 Solicitations

The City does not allow outside solicitations to take place on City time or property. If you are asked to purchase goods, contribute funds, etc. while on City premises, please notify your supervisor immediately.

Section 5.05 Conflicts of Interest

No City employee shall engage in any act which is in conflict, or creates an appearance of impropriety or conflict, with the performance of official duties. When an employee believes the potential for a conflict of interest exists, it is the employee's responsibility to avoid the situation. Employees must notify their supervisor if a conflict of interest or perception of a conflict-of-interest situation exists or may exist. Employees who knowingly fail to avoid or disclose a potential, perceived or actual conflict of interest situation are subject to disciplinary action in addition to any criminal penalty that may be involved. An employee shall be deemed to have a conflict if the employee:

- A. Has any financial interest in any sale to the City of any goods or services;
- B. Engages in conduct that violates Section 5.03 (Gifts and Endorsements) of this ARTICLE;

- C. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private financial interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City; or
- D. Engages in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above.

An employee should not make a unilateral decision if there is any doubt about his/her private employment. The City Administrator or Human Resource Director should be consulted.

No employee shall, directly or indirectly, give or receive, or agree to give or receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City except as provided in Section 5.05, subpart B above.

- E. Discloses or uses without authorization from the City Administrator private, confidential, or other non-public information to further the employee's private interest, or accepts outside employment or involvement in a business activity that will require the employee to disclose or use such information.
- F. Has a financial interest or personal interest in any legislation or decision coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.

Section 5.06 Outside Employment

Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, be incompatible with their City employment, or impair their efficiency on the job. Individuals employed by the City of Brainerd must regard the City as their primary employment responsibility. All outside employment is to be reported to the employee's Department Head. If a potential conflict exists based on this policy or any other consideration, the Department Head will consult with the City Administrator and Finance Director. Any city employee accepting employment in an outside position that is determined by the City Administrator to be in conflict with the employee's city job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

Outside work shall be regarded as secondary to regular City employment and shall not interfere with the availability of employees for regularly scheduled work, emergency, or on-call duties. The City's Workers Compensation insurance does not cover any individual injured in the course of outside employment.

Section 5.07 Incompatible Activities

As a City employee, you have a responsibility to uphold a high standard of honesty and integrity.

You may not engage in any activities which are inconsistent, incompatible or in conflict with the duties of your position. These incompatible activities include activities such as using your position or City resources for personal gain or advantage, accepting money or gifts for performing your duties as a City employee, or engaging in activities which impair your attendance or efficiency in the performance of your duties. If an employee has any question as to whether an activity is "incompatible" with his or her work for the City, the employee must ask his or her department head or, if the employee is a department head, the City Administrator for clarification.

Section 5.08 Use of City Vehicles, Facilities and Equipment

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for: unauthorized personal convenience, for profit, for private use, or as part of secondary employment, or any other use not in the interest of the City, except as provided by law. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

Employees are responsible for appropriate use of time, telephones, cellular telephones, computers, printers, paper, pens, stationery, facsimile machines, and pages. They are expected to adhere to the highest ethical standards when conducting City business and to follow these policies.

Management personnel are responsible for ensuring the appropriate use of all City property, including e-mail and internet access through training, supervising, coaching and taking disciplinary action, when necessary.

Employees who are required to take a City vehicle or equipment home due to the nature of their work for the City, shall do so only with the approval of the City Administrator and in accordance with IRS reporting requirements, and applicable law. City vehicles shall be allowed to leave the City limits (or service area for Fire Department, Police, and BPU vehicles) only while on official City business.

City employees shall have no expectation of privacy in any property or equipment of the City, including, but not limited to, offices, cubicles, desks, files, vehicles, filing cabinets, voice mail, text messages on City paid cellular telephones, PDAs, computers, laptops, mass storage devices, e-mails, electronic media or devices of any kind, or any other type of equipment, property, or space provided by the City. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed, monitored, or searched by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion.

Staff members shall operate City vehicles in a careful and prudent manner and shall obey all state and federal laws and all City orders pertaining to such operation. Staff members shall set a proper example for others when operating City vehicles.

This policy applies to all employees who drive a vehicle on City business at least once per month, whether driving a City-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The City expects all employees who are required to drive as part of their job to drive safely and legally while on City business and to maintain a good driving record.

To the extent allowed by law, the HR Department will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their Department Head and the HR Director or their designee on the first workday after any temporary, pending or permanent action is taken on their license, and in any event before operating a City vehicle, and to keep their Department Head and HR Director informed of any changes thereafter. The City will determine appropriate action on a case-by-case basis.

The City Council approved the following policy regarding vehicle use. The intent of this policy is to ensure appropriate use of City vehicles and rolling stock by City employees while working on City business or as a representative of the City and to ensure a clear understanding thereof.

- A. To the extent feasible, City employees should use a City-owned vehicle when traveling for City work, including conferences, seminars, and meetings that the employee is attending in his or her role as a City employee.
- B. Conferences, schools, seminars and meetings: For purposes of this policy it is intended that training opportunities during the regular work shift within a 90-mile distance of the work location is considered an acceptable work-related activity in as much as the vehicle will be returned to the work site either during or shortly after the completion of the shift.

- C. Out-of-town and overnight conferences and schools: To the extent feasible, employees should use an available City-owned vehicle when traveling to overnight conferences, schools, and events. For travel which has a duration of more than one workday in length, the employee may utilize a non-fleet vehicle, if a City-owned vehicle is not available, the use for which will be compensated at the approved rate. Alternatively, upon prior approval of the City Administrator or designee, the employee can utilize an available vehicle if not needed by other staff during the applicable timeframe.
- D. Lunch hours and authorized breaks: For purposes of this policy when an employee is scheduled to work at a site other than their normal reporting location, and for Police Officers on duty, use of a City vehicle for travel within one mile of the City limits for the purpose of lunch and other authorized breaks shall not be considered personal use.
- E. Overnight use: It is the intent of this policy that all municipal vehicles will have returned to their designated work location by the end of the work shift unless prior authorization has been received from the employee's Department Head.
- F. Personal use: Personal use of City vehicles by City employees or elected officials is prohibited without the express written consent of the City Administrator.

Section 5.09 Possession and Use of Dangerous Weapons.

All employees, except sworn employees of the Police Department, are prohibited from carrying or possessing firearms and/or dangerous weapons other than firearms while acting in the course and scope of employment for the City. The possession or carrying of a firearm or dangerous weapon by employees other than sworn Police Officers is prohibited while working on City property or while working in any location on behalf of the City. This includes but is not limited to:

1. Driving on City business;
2. Riding as a passenger in a car or any other type of transit on City business;
3. Working on the City's property, including City Hall or any other City-owned work site;
4. Working off site on behalf of the City;
5. Performing emergency or on-call work after normal business hours and on weekends;
6. Working at private residences and at businesses on behalf of the City;
7. Attending training or conferences on behalf of the City.

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

For the purposes of this policy, “dangerous weapons” are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

- Exceptions to the dangerous weapons prohibition are as follows: Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on City property, to the extent required by Minnesota Statutes, section 624.714 (as amended), or other applicable law.
- Possession or use of a dangerous weapon necessary for the performance of duties by sworn Police Department employees.

In addition, the City prohibits the discharge of firearms on City property, except as necessary for the performance of duties by sworn Police Department employees. Any employee in violation of this policy will be subject to disciplinary action, up to and including discharge.

This policy is administered and enforced by the Human Resources Department. Anyone with questions or concerns specific to this policy should contact the Human Resource Director.

ARTICLE 6. APPOINTMENTS AND PROMOTION

Section 6.01 Appointment Procedure

It is the intent of the City of Brainerd to recruit and select qualified candidates for available positions, as it deems necessary. The City is committed to recruitment and selection practices that are based on merit. The recruitment and selection processes will be conducted to ensure an open and competitive process. The City Administrator or a designee will oversee the hiring process for positions within the City. Human Resources staff are responsible for managing the recruitment and selection process including, but not limited to, obtaining authorization to hire, evaluating job descriptions, preparing vacancy announcements, scoring applications, conducting interviews, facilitating background checks, scheduling various assessments and medical examinations, scheduling interviews, and making and withdrawing job offers. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to city employment.

The selection process will be a cooperative effort between the City Administrator, HR Director and the hiring supervisor, subject to final hiring approval of the City Council. Any, all, or none of the candidates may be interviewed, as determined by the City at its sole discretion.

When hiring for BPU Department Heads, the City Council will establish a Work Group to oversee the hiring process and up to two representatives from the BPU Commission Personnel Committee will be included in said Work Group.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

Every appointment to municipal service shall be recommended by the City Administrator or designee to the Personnel and Finance Committee and approved by the City Council. When required by law or by the City Administrator, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

For an existing position that becomes vacant and new positions approved as part of the budget, the City Administrator or designee shall inform the City Council of the vacancy to receive the City Council's authorization to begin recruitment and, when complete, to bring a hiring recommendation to the City Council for authorization to hire. Furthermore, when a position has already received approval from the City Council and an offer is made to a candidate who then declines, the Human Resource Director and the department head may use their judgment in reviewing the list of applicants or re-advertising for the same position.

The City Council may, from time to time, provide staff with hiring perimeters. To the extent that the City Council does so, and if said perimeters are followed, the Council may ratify the hiring of an individual after a conditional job offer has been given and the successful completion of pre-employment screening process has been completed.

Unless otherwise required by law or applicable collective bargaining agreement, in no event shall the hiring or continued employment of any person be considered a contractual relationship between the employee and the City. Further, unless otherwise provided, such relationship shall be defined as employment "at-will," which allows either party to dissolve the relationship at any time, for any legal reason or no reason at all. When required by law or requested by the applicable Department Head, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

Section 6.02 Physical Examination and Background Checks

To the extent authorized or required by law, the City reserves the right to require applicants to complete a pre-employment physical examination by a physician designated by the City as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require employees to complete physical examinations related to their ability to complete the essential functions of their positions. The cost of any such examination shall be paid by the City.

To the extent required or authorized by law, the City reserves the right to require applicants to submit to a background check, including a criminal history background check, as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require internal applicants for promotional positions to submit to a background check, including a criminal history background check, as part of the recruitment and appointment process.

Section 6.03 Promotion from Within

To the extent practical, notice of all new job openings or vacancies shall be posted for at least three (3) working days in an appropriate place. Any employee desiring to apply for such job opening shall do so via the designated application process. If a person other than the Human Resource Director is designated in the job posting, the designated individual shall provide the application to the Human Resource Director within one (1) working day of receipt of the application. The internal recruitment process in no way prohibits the City from seeking and hiring qualified applicants through an external recruitment process. Except as required by the provisions of a collective bargaining agreement, the City reserves the right to recruit external candidates with or without conducting an internal recruitment process and has no obligation to select an internal candidate over an external candidate.

Section 6.04 Acting Department Head Policy

The following provisions shall be followed for appointment of Acting Department Heads:

- A. An employee who is designated to act as a Department Head shall be compensated at the rate of pay of the lowest step on the wage grid for the Department Head position that would represent an increase in pay for the employee of at least 3%.
- B. An employee may be appointed to the position of Acting Department Head upon recommendation of the City Administrator through the Personnel and Finance Committee and final approval of the City Council.

- C. Subject to the provisions of any applicable collective bargaining agreement, upon appointment of a Department Head, the City may return the employee who was Acting Department Head to the position and rate of pay he or she held prior to appointment as Acting Department Head, unless the Acting Department Head is appointed to the Department Head position.
- D. It is understood that the employee appointed as Acting Department Head is receiving additional compensation as per the terms of this policy and that no additional compensation will be made if or when the employee returns to his/her previous position regardless if this policy is amended at any point in the future.
- E. Nothing in this policy provides, or can be construed as providing, any employee with the right to be selected as Acting Department Head or Department Head. Nothing within this policy alters, or can be construed as altering, the “at-will” nature of employment of Acting Department Heads.

ARTICLE 7. SALARY ADMINISTRATION PLAN

Non-union supervisory employees, Municipal Utility Division Managers and Department Heads shall be compensated in accordance with wage resolutions adopted by the City Council.

New employees will generally start at Step 1. Promoted and/or reclassified employees will generally start at the lowest step that is at least 3% more than the employee received in his or her previous position with the City; further, wage step placement appeals will not be considered from promoted and/or reclassified employees for a higher step placement. The City retains the sole discretion to start an employee at a higher step depending on qualifications and needs of the City. Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.

Performance evaluations shall be based on job descriptions and result-oriented performance standards. Performance evaluations are intended to assist the employee in reaching maximum potential, enhance services provided by the City, and provide for periodic, formal review by the employee’s supervisor and Department Head. The performance evaluation system shall be conducted in the following way:

- A. It shall be the responsibility of each Department Head to provide periodic written evaluations of subordinate employees, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

- B. It shall be the responsibility of the City Administrator to provide periodic written evaluations of Department Heads on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible. The City Administrator will request feedback from all City-appointed boards that the Department Head is the primary staff liaison to while preparing for said review. The board feedback will be received via a form provided by the Human Resources Department.
- C. It shall be the responsibility of the City Council to provide periodic written evaluations of the City Administrator, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

The decision to provide a merit (step) increase shall be the determination, at the discretion of the Department Head, City Administrator, or City Council as applicable. Pay steps through step 6 are based on satisfactory performance.

In order to advance to Step 7 on an applicable wage grid approved by the City Council, an employee must be on Step 6 and obtain two “achieves expectations” and one “exceeds expectations” on their annual performance evaluation for their currently-held position in any given three-year cycle beginning January 1, 2019. In order to advance to Step 8, an employee must be on Step 7 and obtain another “exceeds expectations” with two prior “achieves expectations” on their annual performance evaluation for their currently-held position in any given three-year cycle.

Step increases for employees hired before August 1, 2022, will become effective on January 1 of each year following the employee’s performance review. For employees hired, reclassified or promoted on or after August 1, 2022, any step increase will become effective on their position anniversary date. Progression through the pay steps will be accomplished by an annual review of employee performance, as described above.

Denial or delay of a step increment shall be subject to the grievance procedures described in these policies.

ARTICLE 8. PROBATIONARY PERIOD

Section 8.01 Duration and Purpose

Subject to the provisions of an applicable collective bargaining agreement and applicable law, all new, rehired, promoted, or reassigned employees shall serve a twelve (12) month probationary period upon assuming their new positions. This period shall be used to

observe the employee's work habits and ability to perform the work that they are required to do. Department Heads shall file with the City Administrator a written summary of the probationary period and include a recommendation for continued employment of the employee.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City Administrator, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Section 8.02 Extension

An employee's probationary period may be extended for an additional period of time not to exceed six (6) months upon recommendation from the City Administrator or Department Head and at the sole discretion of the Human Resource Director.

Section 8.03 Termination

The City Council, upon recommendation of the Personnel and Finance Committee, may terminate with or without cause a probationary employee anytime during the probationary period.

Section 8.04 Completion

At the end of the probationary period, the Department Head will recommend that the City Administrator take one (1) of the following actions:

- 1) Extension of Probation;
- 2) Regular Employment; or
- 3) Termination.

If the recommendation is for termination, the City Administrator will take the recommendation to the Personnel and Finance Committee for consideration, before receiving final approval from the City Council.

An employee's completion of the probationary period does not guarantee future employment or create a "for cause" termination standard. All employees, including employees who have successfully completed a probationary period, are "at will" employees. Nothing in this personnel policy provides, is intended to provide, or should be construed as providing additional rights to employees who complete the probationary period.

Section 8.05 Vacation and Sick Leave

During a new or rehired employee's probationary period, vacation leave and sick leave shall be earned. Employees may use vacation leave after the first six months of their probationary period, subject to approval by the employee's supervisor. Sick leave may be taken during the probationary period not to exceed the sick leave time earned.

ARTICLE 9. HOURS OF WORK

Section 9.01 Work Schedule

Due to the necessity of providing service twenty-four hours per day, seven days per week, it is a reasonable condition of employment to require that employees work a regular schedule of hours as established by the City. Regular schedules shall not be construed as excluding shift rotation and emergency work schedules based on public necessity as determined by the City.

The following are descriptions of the work schedules for the types of employees utilized by the City of Brainerd.

- A. Subject to the terms of any applicable collective bargaining agreement, regular full-time and probationary full-time employees, included in the annual budget, normally have a work schedule of forty (40) hours per week, (five (5) days per week, eight (8) hours per day). The City reserves the right to set employees' schedules and hours of work as required to deliver City services.
- B. Regular part-time and probationary part-time employees have a work schedule that is less than forty (40) hours per week. Employees who work less than thirty (30) hours per week shall not be eligible for fringe benefits, except as required by law. Employees who work thirty (30) hours per week or more shall be eligible for the following fringe benefits on a pro-rata basis:

Holidays - As established in ARTICLE 15 of this manual.

Vacation - As established in ARTICLE 16 of this manual.

Sick Leave - As established in ARTICLE 17, Section 17.06 of this manual.

Employees who work thirty (30) hours per week or more shall be eligible to participate in the City's group health insurance, cafeteria plan and life and long-term disability ("LTD") insurance provided that the participation of such employees is allowed by the insurance carrier/plan eligibility rules.

The employer's contribution for health insurance and life and LTD insurance for eligible participating employees shall be determined on a pro-rata basis.

- C. Temporary or seasonal employees may work a flexible schedule for a period not exceeding 185 consecutive calendar days in each year of employment, or such other amount of time as determined by the City Administrator or designee. Full-time students under the age of 23 may also work a flexible schedule as allowed by law. Employees who are temporary, seasonal, and/or full-time students are not eligible for fringe benefits.

Employees should be made aware of their work schedules by a method suitable for the various city departments. Any changes in work schedules usually will be made known to employees affected ahead of time when the schedules take effect, except in the case of emergencies.

Section 9.02 Time Sheets

Each employee of the City shall complete an accurate time sheet following the proper procedure and timeline. Time sheets shall cover a two (2) week (fourteen (14) day) period except Paid on-call Firefighters whose timesheet will cover a full calendar month. Time sheets shall be completed by each employee and shall show all hours worked and the department the work is to be charged to. All overtime, if applicable, shall be approved by the Department Head. Reporting false information on a time sheet may be cause for disciplinary action up to and including immediate termination.

Section 9.03 Supervisory Employees

The City Administrator, Department Heads, Municipal Utility Division Managers and non-union supervisory employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act may be allowed to maintain limited flexibility in their work schedule from the normal workday to the extent that job performance and service responsibilities of the City to the public remains satisfactory and at the approval of the employee's supervisor. This limited flexibility means that, if a Department Head, Municipal Utility Division Manager or non-union supervisor is absent for four or more hours in any normal workday, appropriate leave must be utilized to account for the absence.

The regular work week for all regular employees, including Department Heads, Municipal Utility Division Managers and non-union supervisors consists of five workdays. Even though Department Heads, Municipal Utility Division Managers and non-union supervisors may be required to work additional hours for night meetings, City functions and duties, etc., the employee must report to work all five days per week, even if the actual hours worked exceeds 40 hours prior to the fifth day. If an employee does not report to work for an entire day in a work week, the timesheet must show which type of appropriate leave is being taken (e.g., eight hours of vacation time).

If a Department Head, Municipal Utility Division Manager or non-union supervisor needs to work a full day on a weekend or holiday, he or she may make a request to the Department Head (for Municipal Utility Division Managers or non-union supervisors), City Administrator (for Department Heads), to have this workday switched to allow for a day off on another day. This request must be approved by the Department Head or City Administrator as appropriate, before the employee switches his or her work schedule.

Section 9.04 Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). An employee may be allowed to work from home with prior approval by their supervisor; allowed to use accrued vacation time or compensatory time, or with supervisor approval; or may modify their work schedule if allowed without incurring overtime per the applicable union contract or make other reasonable schedule adjustments.

Sworn police officers, firefighters, utility and public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the City Administrator.

ARTICLE 10. OVERTIME HOURS

Section 10.01 General

Overtime pay for employees will be in conformance with State and federal law, including Minnesota Statutes, section 177.25 (as amended) and the Federal Fair Labor Standards Act, 29 United States Code, section 201 et seq., ("FLSA") as amended, and all applicable State and federal rules and regulations implementing section 177.25 and/or the FLSA.

- A. For purposes of computing overtime for employees, other than BPU employees, work weeks shall begin at 12:00 a.m. on Sunday. For purposes of computing overtime for BPU employees, work weeks shall begin at 12:00 a.m. on Monday.
- B. Hours worked by non-exempt, non-union employees in excess of forty (40) per week shall be compensated at one and one-half (1 ½) times their hourly wage rate unless a different rate is established by an employment contract.
- C. Holiday hours actually worked are calculated as time worked in the computation of overtime pay.

- D. For the purposes of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- E. No employee may work overtime without the prior approval of his or her Department Head, or designee.
- F. Exempt, non-union employees shall not be eligible for overtime compensation or compensatory time, except as provided in Section 10.04 of this Policy.

Section 10.02 Payment

Department Heads are responsible to schedule the work in their departments to minimize overtime. Overtime shall be inputted in 1/4 hour (fifteen minute) increments.

Section 10.03 Compensatory Time

Upon request, non-exempt, non-union employees will be allowed to earn compensatory time in lieu of receiving overtime compensation. In no event, shall accrued compensatory time off exceed the limitations provided in the FLSA. Once an employee has reached maximum accrual, compensation for additional hours must be paid in cash, rather than accrued as compensatory time off.

Compensatory time shall be determined at the rate of one and one-half (1½) hours off for every hour of overtime worked, or at a higher rate, if the employee receives a higher rate of pay for the overtime hour(s) in question in accordance with the terms of a collective bargaining agreement or other employment contract. Compensatory time off will be granted in not less than one-quarter hour units.

The City reserves the right to pay out any compensatory time off in excess of 80 hours, as it deems necessary. Accrued compensatory time off may be used with prior approval from the employee's Department Head, which shall be granted unless use of compensatory time off would unduly disrupt the operations of the City.

Upon separation from the City's employment, employees shall be paid for their accrued, but unused compensatory time off in accordance with the FLSA and other applicable law.

Section 10.04 Overtime for Exempt Employees

Notwithstanding the above, exempt employees may receive overtime compensation to the extent provided in an intergovernmental agreement or other contract between the City and another entity, if the contract requires the other entity to pay the cost of overtime hours.

ARTICLE 11. PERSONNEL/PAYROLL

Section 11.01 Personnel Records

An employee must notify the Department Head and the Human Resource Director in case of a change in address, telephone number, marital status, or number of dependents. If at any time an employee's address or telephone number is changed and the change is not reported, it may be difficult or impossible to complete delivery of messages, notices, or other information which should be received. Incomplete information creates problems with payroll deductions and fringe benefits, such as medical coverage. Accordingly, the failure to provide such information may impact the City's ability to provide pay and/or benefits to City employees.

Section 11.02 PERA (NOTE: See PERA's Website: www.mnpera.org to verify contribution rates)

Almost all city employees in the State of Minnesota are covered by a public pension system known as the PERA. Both the City and employees contribute to PERA. For specific information regarding annual contribution rates, contact the Human Resource Director. Vesting time varies depending on your membership eligibility date and the pension is portable among public employers throughout the state. Being vested means you qualify for benefits at the minimum allowable age.

In normal situations, employees and employers both contribute a percentage of the employee's gross salary to PERA. However, Minnesota law provides that some income received by an employee are not eligible for PERA contributions. Employees should contact the Human Resource Director with specific questions regarding PERA contributions.

Section 11.03 FICA

All full-time, part-time, temporary and/or seasonal employees are mandatory members of Federal Insurance Contribution Act (commonly known as Social Security). The City is required to deduct certain amounts from such employees' gross salary. Certain employees may be exempt from this deduction. Employee should contact the Human Resource Director with specific questions regarding FICA deductions.

Section 11.04 Medicare

All full-time, part-time, temporary and/or seasonal employees have a mandatory deduction for Medicare tax taken from their paychecks. Employee should contact the Human Resource Director with specific questions regarding Medicare deductions.

Section 11.05 MN Deferred Compensation

The City is a member of the Minnesota Deferred Compensation Plan. An employee may, at their option, defer any part of income, to a maximum amount set by law, of gross salary. The City does not contribute any monetary amount to the MN Deferred Compensation Plan unless required by the provision of collective bargaining agreement.

ARTICLE 12. SEPARATION FROM EMPLOYMENT

Section 12.01 General Statement

Separation from employment is an inevitable part of personnel activity within any organization, and there are many reasons for separation. The reasons for separation include: (1) resignation; (2) discharge (in accordance with ARTICLE 28 of these policies); (3) layoff; and (4) retirement (in accordance with ARTICLE 13 of these policies).

An employee leaving the City, for any reason, must turn in his/her identification badge and card, tools, shop coats, keys, books, and other City equipment no later than the last day of work. The employee is expected to go through an exit interview with the Human Resource Director on his/her last day of work. This interview is important for both the City and the employee. Through this interview, information may be provided which can lead to the causes of turnover, absenteeism, poor communication, etc. Oftentimes problems are discovered which appeared non-existent previously. It can be an effective means for gaining insight into potential personnel problems.

Section 12.02 Resignation

As at-will employees, all City employees may resign at any time, for any reason. In order to be considered "in good standing" at the time of resignation, an employee must file with employee's department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Department Heads, Municipal Utility Division Managers and non-union supervisors wishing to resign "in good standing" should give the City as much advance notice as possible, but must provide at least 30 days' notice. Failure to comply with this 14-day or 30-day notice procedure may be considered cause for denying the employee future employment by the City and denying termination benefits. Unauthorized absence from work for a period of three working days may be considered by the City Administrator as a resignation "not in good standing" and without benefits.

Section 12.03 Layoffs

After at least two weeks' notice to the employee, the City Administrator may lay off any employee when such action is necessary because of shortage of work or funds, the

abolition of a position, or changes in organization. If it should become necessary to reduce the City work force, the City may give consideration to the employees' on-the-job performance, abilities, job knowledge and the potential for other jobs within the City.

Section 12.04 Final Pay Following Termination of Employment

Subject to applicable law, employees who terminate employment with the City shall receive their final pay settlement a maximum of two weeks from the date of resignation, coinciding with the next normal payday.

ARTICLE 13. RETIREMENT AND SEVERANCE PAY

Section 13.01 Procedure

Regular employees who retire voluntarily in good standing, as defined in as defined above, after giving at least two (2) weeks' notice to the City and are eligible to immediately begin receiving monthly retirement benefits under the provisions of PERA as of the date of his or her retirement shall be granted severance pay based on the following conditions and rates:

Section 13.02 Conditions

- A. Retirement - voluntary and in good standing, as defined in ARTICLE 12.
- B. Voluntary retirement or termination of employment in good standing, as defined in ARTICLE 12, due to health reasons, service-connected injury, or illness.

Section 13.03 Rates

All regular employees, regardless of the date of hire, shall be entitled to 100 percent of their unused sick leave as severance pay, with a maximum of nine hundred sixty (960) hours, upon retirement in good standing, as defined in ARTICLE 12, or if they become disabled and must terminate their employment, with written proof by a physician. In the event of death, severance pay shall be paid to the beneficiary. Pay for unused sick leave shall be based on existing annual wage as described in Exhibit C or applicable union contract.

ARTICLE 14. MEAL AND COFFEE BREAKS

All hourly employees shall receive one (1) fifteen (15) minute rest period during each four (4) consecutive hours of work. Rest periods are part of the paid work shift. An employee shall not be compensated additional wages or time off for not taking a scheduled rest period. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or meal time, including any standard meal

time designated by a specific Department—or accrue compensatory time—by saving these breaks. Breaks should be scheduled so as to not interfere with work requirements.

In general, City employees working a scheduled full-time shift are entitled to a one (1) hour uncompensated meal period. Meal periods shall be scheduled by the department head or supervisor. Employees will not be permitted to adjust work start time or accrue compensatory time by skipping or shortening meal breaks.

ARTICLE 15. HOLIDAYS

The following holidays, or days observed as such, shall be considered paid holidays for all regular employees:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Veterans' Day
- Juneteenth
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving Day
- Christmas Day
- One "Floating" holiday

When an official holiday recognized in this policy falls on a Saturday, the preceding Friday shall be declared a holiday for employees whose normal work schedule is Monday through Friday. When an official holiday recognized in this policy falls on a Sunday, the following Monday shall be declared a holiday for employees whose normal work schedule is Monday through Friday.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Union employees shall be compensated for holiday time according to the terms and conditions of their collective bargaining agreement.

Requests for floating holidays shall require three (3) days' written notice to the Department Head. Such requirement may be waived when absence of the employee will not unduly affect the functioning of the department.

Employees will be accredited their floating holiday on January 1st of each year and may use it at any time during the year.

Floating holidays must be taken in one (1) day (or eight (8) hour) increments. Floating holidays are not carried over year-to-year and must be used in the calendar year that they are received. Floating holidays not used by December 31 of the calendar year they were received are forfeited.

ARTICLE 16. REGULAR VACATION

Section 16.01 General Vacation Rules

A. When Taken

Vacation leave may be taken after written approval by the Department Head or designee. Vacation leave will be granted in not less than one-quarter hour units. Probationary employees' use of vacation leave is subject to ARTICLE 8 of these policies.

B. Length of Service

Length of service for the purpose of determining vacation accrual is calculated from the date of hire with the City. If an employee returns to work at the City after a break in service, the employee's length of service will be calculated from the date of rehire.

C. Scheduling Vacation

Department Heads are responsible for approving the scheduling of vacation leaves for employees under their supervision, and approval is not automatic.

1. Consideration shall be given to seasonal demands and departmental staffing needs before granting any vacation leave requests.
2. Subject to the needs of the Department, preference in scheduling shall be based on the order in which vacation requests are received and/or seniority of employees.

D. Monetary Consideration in Lieu of Vacation

Vacation pay shall be reflected on the paycheck issued for the pay period in which the vacation is taken. No vacation shall be paid in lieu of taking time off, except as authorized under the City's Cafeteria Plan.

E. Accrual of Vacation

Employees may accumulate vacation time equal to a maximum of 240 hours. Vacation accrual will cease if an employee is off of the City's payroll system for any reason whatsoever, except as required by law.

F. Vacation Payout

Employees who leave the employment of the City in good standing, as defined in ARTICLE 12 of these policies, by retirement or resignation will receive pay for 100 percent of unused accrued vacation. An employee shall not be considered to be "in good standing" if the employee resigns or retires following allegations of misconduct pending investigation, as determined by the City Council in its sole discretion.

All full-time employees, except the City Administrator, Department Heads and Municipal Utility Division Managers, shall earn vacation at the rate of: 6.67 hours per full month worked during the employee's first five years of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

5 years of service - 10.00 hours per month
10 years of service - 10.67 hours per month
11 years of service - 11.33 hours per month
12 years of service - 12.00 hours per month
13 years of service - 12.67 hours per month
14 years of service - 13.33 hours per month
15 years of service - 14.00 hours per month
16 years of service - 14.67 hours per month
17 years of service - 15.33 hours per month
18 years of service - 16.00 hours per month
19 years of service - 16.67 hours per month
20 years of service - 17.33 hours per month
21 years of service - 18.00 hours per month
22 years of service - 18.67 hours per month
23 years of service - 19.33 hours per month
24 years of service - 20.00 hours per month

City Administrator, Department Heads and Municipal Utility Division Managers shall earn vacation at the rate of:

Ten (10) hours per full month worked during the first year of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

- 1 year of service – 10.67 hours per month
- 2 years of service – 11.33 hours per month
- 3 years of service – 12.00 hours per month
- 4 years of service – 12.67 hours per month
- 5 years of service – 13.33 hours per month
- 6 years of service – 14.00 hours per month
- 7 years of service – 14.67 hours per month
- 8 years of service – 15.33 hours per month
- 9 years of service – 16.00 hours per month
- 10 years of service – 16.67 hours per month
- 11 years of service – 17.33 hours per month
- 12 years of service – 18.00 hours per month
- 13 years of service – 18.67 hours per month
- 14 years of service – 19.33 hours per month
- 15 years of service – 20.00 hours per month

ARTICLE 17. EMPLOYEE LEAVES

Section 17.01 Jury Duty

Any employee who is required to serve as a juror shall be granted a leave of absence with pay while serving in such capacity. Employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. An employee cannot receive more than the employee's normal take-home pay as a result of any employer pay supplemented to Jury Duty pay. Jury duty pay must be remitted to the City. When employees are excused from jury duty during their regular working hours, they are expected to return to work if practicable. If a holiday occurs during jury duty, the employee shall be paid for the holiday.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Insurance benefits will remain in effect for the full term of jury duty leave. Employees must continue to make employee contributions for any insurance that requires payment on their part.

Vacation time and sick time shall continue to accrue during the period of leave. Benefits will continue to accrue as though the employee were actively at work.

Section 17.02 Military Leave

Employees shall be entitled to leave without pay for military service, including training in the National Guard, consistent with the Uniformed Services Employment and Re-employment Rights Act of 1994 ("USERRA") (as amended) and Minnesota law, including, but not limited to, Minnesota Statutes, chapter 192 (as amended).

Section 17.03 Leave for Service in Organizations

The City Council with the recommendation of the City Administrator and Personnel and Finance Committee, may grant a leave of absence without pay for reasonable periods not to exceed one (1) year to any regular employee for the purpose of serving in an elected or appointed position, other than as a paid employee, in a professional organization or a governmental commission or committee, provided such leave will not reduce the quality or level of service to the public.

No vacation leave, sick leave, holiday leave or compensatory time off benefits shall be used or accrued during a leave of absence and the City will not contribute to insurance premiums.

Section 17.04 Parental Leave

Parenting Leave, as provided for in Minnesota Statutes, section 181.941, as amended, grants qualifying employees unpaid leave of up to twelve (12) weeks for: (1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or a related health condition. Parental Leave is considered to be taken simultaneously with FMLA leave. If leave is taken due to the birth or adoption of a child, the leave must begin within twelve (12) months of the birth or adoption, unless the child remains in the hospital after the mother has been discharged, in which case the leave must begin within twelve (12) months after the child leaves the hospital.

The City will inform employees of their parental leave rights at the time of hire and when an employee makes an inquiry about or requests parental leave.

The City shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting parental leave rights or remedies.

Section 17.05 Funeral Leave

All regular full-time employees shall be permitted paid funeral leave not to exceed 24 hours, if necessary, for the death of an immediate family member (employee's spouse, child, step-child, father, mother, brother, sister, father-in-law, mother-in-law) and one (1)

working day, if necessary, for the death of an employee's grandparent. Funeral leave for other relatives may be granted at the discretion of the Human Resource Director. Up to twenty-four (24) additional hours of sick leave may be used as additional funeral leave at the discretion of the City Administrator. For purposes of this policy, the term "working day," means a regularly scheduled shift, excluding any time that an employee would be considered "on call" unless the employee actually would have been called to perform duties during that period.

Section 17.06 Sick Leave

All eligible part-time and temporary City employees shall earn sick leave at the rate of one (1) hour per thirty (30) hours worked as required by the Earned Sick and Safe Time (ESST) Law and City Policy. Except to the extent provided in an applicable collective bargaining agreement, full-time employees shall also earn ESST leave at the rate of at least one (1) hour per thirty (30) hours paid excluding the following pay types: Vacation Sale; Comp Time Payouts; Comp Time Earned (our payroll system can only recognize when comp time is taken/paid); and Vacation, Sick and Comp Time severance payouts. In addition, full-time employees will earn a combination of Sick Leave and ESST to equal (8 hours) of leave per month. Sick leave will be granted in not less than one-quarter hour units. Sick leave accumulation shall be a maximum of 120 days (960) hours.

An employee may use sick leave when the employee is unable to attend work or perform work duties due to illness, injury, the necessity for medical, dental, or chiropractic care, childbirth, or exposure to contagious disease where such exposure may endanger the health of others with whom the employee would come in contact during the course of performing work duties. Employees may also use their accrued sick leave for any other purpose for which the City is required to allow an employee to use sick leave by State or federal law.

When requesting sick leave for a scheduled or foreseeable absence, employees must notify the supervisor as soon as the employee is aware of the need to utilize sick leave.

To be eligible for sick leave with pay, an employee shall:

- A. Report as soon as possible to the employee's immediate supervisor as described above. If the need for sick is not foreseeable, the employee must notify his/her supervisor as soon as the employee becomes aware of the need for leave. The employee shall identify if the absence is due to the employee's illness or the employee's immediate family, as listed above;
- B. Keep the employee's immediate supervisor informed of such employee's need for continued absence; and

- C. To the extent allowable by law, for any absence that exceeds three days, upon request by the City Administrator, submit a medical certificate before the employee will be allowed to return to work.

Except as may be required by law, sick leave accrual will cease if an employee is off of the City's payroll system for any reason whatsoever.

To the extent allowable by law, the City reserves the right to require any employee returning from sick leave to provide a certificate stating that he or she is able to perform the essential functions of his or her position, with or without reasonable accommodation.

In case of disability caused by sickness or injury and covered by Workers Compensation, the City will pay to the employee only such sums, as together with Workers Compensation payments, will equal their base pay but never for a longer period than their accumulated sick leave and vacation leave. The time deducted from the employee's accumulated sick leave, until exhausted and then vacation, until exhausted, shall be the difference between the employee's normal gross pay and the payment received by the employee for workers compensation. An employee cannot receive more than the employee's normal take-home pay as a result of any workers compensation payment.

In such case, to the extent allowable by law, once sick leave is exhausted, the time deducted from accumulated vacation leave shall be in the same amount as the proportion of wages paid by the City bears to the entire base pay of the employee. No sick leave or vacation leave will be paid to employees while actually working for others.

Section 17.07 Earned Sick and Safe Leave

NOTE: The policy will be inserted after Council approval.

Please refer to Exhibit D to view the required ESST notice.

Section 17.08 Extended Medical Leave

When medically necessary, and upon receipt of a medical certificate from an employee's treating physician, the City Administrator may approve a request for a medical leave extension of up to 90 days due to the employee's serious medical condition or to care for a spouse, parent or child who has suffered a serious medical condition.

Before using unpaid leave under this ARTICLE, the employee must use all paid leave. Leave granted pursuant to this Section may run concurrently with leave under the Family and Medical Leave Act ("FMLA").

Employees will not earn or accumulate benefits or other compensation while on unpaid leave, except as required by law. A medical certificate attesting to the employee's fitness for duty shall be required prior to any employee returning to work from medical leave. Also, the City may require that the employee submit to an examination by a medical provider selected by the City to determine whether the employee is able to perform the essential functions of his or her job, with or without reasonable accommodation.

The Human Resource Director may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.

Section 17.09 Personal Leave

Upon written request of an employee, the City Council may grant an employee a leave of absence without pay for a period of up to 90 consecutive calendar days, at its sole discretion.

Employees will not earn or accumulate leave, benefits, or other compensation while on unpaid leave except as required by law.

Section 17.10 School Leave

To the extent required by law, employees may take up to a total of sixteen (16) hours per twelve (12) month period of unpaid leave to attend school conferences and school-related activities related to the employee's child, provided the conferences or other school-related activities cannot be scheduled during non-work hours. Employees taking leave for this purpose may, but are not required to, substitute vacation or compensatory time for any part of this unpaid leave.

Section 17.11 Family & Medical Leave

Eligible employees, as determined by the Human Resource Director or designee, may be entitled to take unpaid leave pursuant to the Family and Medical Leave Act ("FMLA") for the purposes described in 29 U.S.C. § 2612 (as amended). All such leave, including the responsibilities of the City and its employees related to such leave, is subject to the conditions prescribed in the FMLA and the Department of Labor's regulations implementing the FMLA.

A. Restrictions on FMLA Leave

For additional information regarding FMLA leave, including the circumstances in which such leave may be taken, employees should consult the posted notices. In addition, as

permitted by the FMLA, the City places the following restrictions on eligible employees' use of FMLA leave:

1. The City has designated a "rolling" twelve (12) month period for purposes of determining employees' entitlement to FMLA leave. The "rolling" twelve (12) month period is measured backward from the date the employee uses any FMLA leave.
2. Spouses employed by the City are permitted to take a combined total of twelve (12) work weeks of FMLA leave during a single twelve (12) month period if the FMLA is: (1) due to the birth of a son or daughter of the employees; (2) due to the placement of a son or daughter with the employees for adoption or foster care; or (3) in order to care for a parent of the eligible employee.
3. Employees who request leave under this policy based on: (1) their own serious health condition; (2) to care for a parent, spouse, or child's serious health condition; or (3) military caregiver leave, are required to submit a completed medical certification that complies with the requirements of the FMLA. Medical certification forms are available from Human Resources. The City reserves the right to request a second opinion, at the expense of the City, to the extent permitted by the FMLA. If the results of the employee's certification differs from the results of the City's certification, the City may obtain a third opinion at the City's expense. The City also reserves the right to require periodic recertification, to the extent allowed by the FMLA and to contact the certifying medical provider to authenticate or clarify the medical certification in lieu of seeking a second opinion. Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency, if leave is requested for that purpose.
4. Except in emergency situations, the employee is required to provide written notice of the need to take leave to his or her immediate Supervisor not less than thirty (30) days before the date the leave is scheduled to begin. If the leave is to begin in less than thirty (30) days, the employee shall provide such written notice as soon as practicable.
5. Employees are required to use all accrued sick leave, vacation leave, and any other accrued paid leave concurrently with leave provided under the FMLA. Employees with both accrued sick and vacation leave are required to use sick leave and compensatory time, if any, before using accrued vacation leave. The combined paid and unpaid leave cannot exceed the applicable twelve (12) week or twenty-six (26) week maximum FMLA leave time. FMLA leave may run concurrently with a worker's compensation absence if the on-the-job injury or illness also qualifies as a serious health condition under the FMLA.

6. Subject to the terms, conditions, and limitations of applicable plans, eligible employees are entitled under the FMLA to the same health insurance benefits provided by the City while on FMLA leave to the same extent as if the employee were not on FMLA leave. Employees who contribute toward their health care coverage must continue to make that contribution while on leave, either through payroll deduction (if using paid leave) or by personal check (if using unpaid leave). If the employee fails to return to work after taking family or medical leave, the City may recover the premiums paid by the City for group health and life insurance unless the serious health condition of the spouse, child, parent or employee continues or for other circumstances beyond the control of the employee.
7. Vacation, sick, and holiday leave will not be earned during a period of unpaid FMLA leave. FMLA leave, whether paid or unpaid, will not constitute a break in service for purposes of computing years of service.
8. The City requires a medical certificate attesting to the employee's fitness for duty prior to the employee being allowed to return to work. The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the essential functions of the job. The Human Resource Director or designee may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.
9. Records of FMLA leave will be kept along with normal personnel records except that any medical record(s) will be maintained separately in accordance with applicable laws.

B. Effect on Pension:

Employees should contact the MN Public Employees Retirement Association ("PERA") for information about how FMLA leave may affect their retirement benefits.

C. Training:

Employees who have missed training sessions while on FMLA leave will be given a reasonable opportunity to make them up upon returning to work.

Section 17.12 Department Head Absenteeism Notification

Except in the event of an emergency that prevents such notice, Department Heads shall notify the City Administrator prior to any absence from the office.

Section 17.13 Catastrophic Leave Bank

POLICY STATEMENT

The City of Brainerd recognizes that occasions arise when employees may have exhausted their vacation leave, sick leave and compensatory time, due to a non-work related injury or prolonged illness that has not yet qualified for long-term disability insurance benefits. It is the intent of this policy to provide an opportunity for City employees to voluntarily donate vacation leave hours to an emergency medical leave bank for use by other City employees who demonstrate a catastrophic medical emergency. The program is voluntary in nature and does not guarantee any resulting benefit to any employee in need nor does it require participation of any employee. This policy applies to employees of bargaining units upon agreement of their exclusive representative.

Eligibility

All non-probationary City employees, including members of collective bargaining units whose exclusive representatives have agreed to this policy, are eligible to participate in this Catastrophic Medical Leave Sharing Bank ("CMLSB"). Donation to the bank is entirely voluntary.

Definitions

- A. "Catastrophic Medical Emergency" is a major life-threatening disease or illness or non-work related major injury involving a prolonged absence from work. Per the dictionary, a catastrophe is a momentous tragic event ranging from extreme misfortune to utter overthrow or ruin.

Examples may include: heart attack, stroke, organ transplant, cancer or major non-work-related injury.

The medical emergency must result in the incapacitation of the employee, spouse, or child/stepchild for a minimum of 80 consecutive work hours (subsequent intermittent absences involving the same illness or condition shall also qualify) which requires the employee to take time off from work and creates a financial hardship because all of the employee's paid leave has been exhausted.

"Catastrophic medical emergency" is specifically not defined as all "serious health conditions" as defined under the FMLA.

- B. "Verification of catastrophic illness or injury" shall consist of a physician's statement verifying that:
 - 1. The employee is suffering from a major life-threatening disease, illness or non-work related major injury requiring a prolonged absence from work; or
 - 2. That the employee must be present to care for the employee's spouse, child or stepchild who is suffering from a major life-threatening disease or illness or major injury; and
 - 3. A brief description of the nature of the illness or injury and the anticipated duration of the incapacity.
 - 4. The Verification of catastrophic illness or injury shall be in addition to the FMLA certification of health care provider.
- C. "Donor" is an employee who donates vacation leave to the Emergency Medical Leave Sharing Bank.
- D. "Applicant" or "Recipient" is a non-probationary City employee who has applied for or received leave from the CMLSB.
- E. "Committee" as referenced in this policy shall consist of the City Administrator, Human Resource Director, and the Chair of the Personnel and Finance Committee.

Catastrophic Medical Leave Sharing Bank BENEFITS AND LIMITATIONS

- A. The applicant must have exhausted all of the employee's own accrued vacation, sick leave, and compensatory time in order to receive any Catastrophic Medical Leave ("CML").
- B. The applicant may apply for CML while still in paid status, but no sooner than 80 hours before the exhaustion of all of the applicant's paid leave or CML.
- C. An applicant may be eligible to receive up to a maximum of 160 hours of CML per request, which shall be placed in the recipient's sick leave bank as needed per pay period in increments of no more than 80 hours at a time. Additional requests for CML may be submitted upon the anticipated exhaustion of the initial hours and medical verification of continued need, but the total CML granted to one recipient in relation to one medical emergency shall not exceed 480 hours. Part-time employees shall be eligible to receive CML on a pro-rata basis.

- D. Recipients of CML must use the leave only for the Catastrophic Medical Emergency. Any CML which is not used for the medical emergency shall be returned to the bank and cannot be retained by the recipient.
- E. An applicant shall be required to apply for FMLA leave in conjunction with the application for CML. Catastrophic Medical Leave time will run concurrently with any applicable FMLA leave.
- F. The recipient shall be in a paid status when using CML for the purpose of receiving benefits. When a pay period includes a holiday, a participant using CML shall receive holiday pay provided they are in a pay status the last regular shift prior to, and the first regular shift following the holiday.
- G. A recipient's CML pay will continue to be taxed in accordance with state and federal law, and all authorized deductions will continue to be deducted from the participant's paycheck, provided sufficient wages are available.
- H. All time donated to the pool shall be converted to a dollar amount based upon the donor's hourly rate of pay. All CML shall be used at the recipient's rate of pay.
- I. Leave from the CML may not be used for illness or disability which qualifies the participant for Worker's Compensation, long-term disability, PERA disability or Social Security benefits.
- J. An applicant shall be required to apply for long-term disability and PERA disability, as applicable, for the employee's own medical condition which results in the employee's absence from work for more than 90 calendar days, whether before or after the employee has exhausted his/her own paid leave. The recipient applicant shall provide verification of such application.
- K. Leave donated to the CML Bank shall remain in the bank from year to year and shall be available to eligible employees. Donation of leave to the CML Bank is irrevocable.

Application Process

- A. Applicants shall be required to complete a form setting forth their request for CML, the reason, number of hours requested and the anticipated duration of the medical emergency. A new request form shall accompany each subsequent request. The CML Request form will be turned into the Human Resource Director prior to the start of the leave if possible. Requests will be reviewed by the Committee.
- B. The Applicant shall sign a waiver of liability in connection with the CML request and any subsequent request. The applicant shall provide a "verification of catastrophic illness or injury" with the request form or within (10) calendar days of the request. In the event that the Verification is not

submitted in a timely manner, the CML request may be considered by the Committee but no leave will be disbursed to the applicant until the verification is received and reviewed by the committee.

- C. Applicants who are denied CML or whose withdrawal is not renewed or is terminated may, within fifteen (15) calendar days of denial, appeal the denial, non-renewal or termination by providing new or additional information to the Committee and completing a supplemental application and waiver. The final decision will be reported to the applicant, in writing, within ten (10) working days of the decision. This decision of the Committee is final. Such final authority is not subject to the grievance procedure or litigation and the applicant shall specifically waive any rights to review by any of these options.
- D. All requests for CML, verifications of catastrophic illness or injury and other documentation related to an applicant's medical condition or that of the applicant's family member shall be kept confidential and shall only be disclosed as necessary to administer request for withdrawal.
- E. If the CML bank does not have sufficient hours to fund a withdrawal request, the City is under no obligation to pay the applicant any funds. If a withdrawal request is denied in whole or in part because of insufficient dollars to fund the request, the applicant shall be notified in writing of the reason for the denial.

DONATION PROCESS

- A. A regular full or part time employee may donate vacation leave to the Catastrophic Medical Leave Sharing Bank twice annually, which shall occur with the first pay period in December or June. In the event that the CML Bank becomes depleted, the City Council may, in its sole discretion, authorize a third open window period for donation to the Bank.
- B. Donors are required to have a minimum of 80 hours of vacation leave available to them in their accrued vacation leave bank after a donation is made.
- C. Donation to the CML bank is irrevocable.

TENNESSEN WARNING

Information provided pursuant to the Catastrophic Leave Donation Policy is classified as personnel data pursuant to Minnesota Statutes, Section 13.43, as amended. You are not legally required to participate in the program and are therefore not required to provide any information. If you choose to participate in this voluntary program, you will be required to provide the information set forth above in order to donate or receive donated leave.

The requested and required information regarding leave donation requests, including medical information and the basis for leave donation requests will be disclosed to those individuals whose work assignments reasonably require access, including committee members, insurance vendors, consultants and attorneys. The information may also be used to make decisions regarding your eligibility for extended sick leave, family and medical leave, and other leaves; your eligibility for workplace accommodations, including accommodations for disabilities; and other benefits. The information may also be shared with other agencies authorized by law to receive specific data, including but not limited to: Civil/human rights; Worker's Compensation; Unemployment Compensation; and Labor Contracts.

Information regarding the value of donated leave as taxable income will be reported to the Minnesota Department of Revenue, the Internal Revenue Services and security tax programs.

17.14 Bone Marrow/Organ Donation Leave

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours, unless agreed to by the city, to undergo medical procedures to donate bone marrow or an organ. The 40 hours is over and above the amount of accrued time the employee has earned.

The city may require a physician's verification of the purpose and length of the leave requested to donate bone marrow or an organ. If there is a medical determination that the employee does not qualify as a bone marrow or organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

An employer shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting bone marrow or organ donation leave rights or remedies.

17.15 Elections/Voting

An employee selected to serve as an election judge pursuant to Minnesota law, will be allowed time off with pay for purposes of serving as an election judge, provided the employee gives the City at least twenty days written notice, including a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve. The City may reduce the wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment. The city reserves the right to restrict the number of employees absent from work for the purpose of serving as an election judge to no more than 20 percent of the total work force at any single worksite.

Every employee eligible to vote may be absent from work during a regularly scheduled election, or during the period allowed for voting in person before election day, for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election. Employees wanting to take advantage of such leave are required to coordinate with the Department Head to avoid coverage issues.

17.16 Reasonable Work Time for Nursing Mothers

Minnesota's Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law (Minn. Stat. §181.939, as amended) gives pregnant and lactating employees certain legal rights and remedies. The City will provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's child, in accordance with and to the extent required by applicable law. The break time may run concurrently with rest and meal periods already provided to the employee.

The City will provide a clean, private and secure room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

The City shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting nursing rights or remedies.

Please refer to Exhibit E to view the required Reasonable Work Time for Nursing Mothers notice.

ARTICLE 18. EMPLOYEE INSURANCE

Section 18.01 Medical Insurance

The City provides a medical coverage insurance plan for eligible employees as described in the Summary Plan Description.

The insurance coverage takes effect the first day of the month coinciding with or immediately following the employee's date of hire, except as required by applicable law, including, but not limited to, the Affordable Care Act. The City provides contributions to health insurance premiums as approved annually by the City Council.

The City will contribute towards the health insurance premiums of employees and elected officials as described in Exhibit A to this Policy Manual. Information regarding health insurance benefits will be provided by the Human Resource Director for new employees and periodically thereafter. Any further questions pertaining to insurance coverage shall be directed to the Human Resource Director or designee.

Section 18.02 Life and LTD Insurance

The City provides a term life insurance policy for all eligible employees, as described in Exhibit B and the applicable Summary Plan Description. The plan takes effect the first day of the calendar month coinciding with or immediately following completion of six months of employment. The amount of life insurance coverage provided is described in an applicable collective bargaining agreement or determined by the City Council. For elected officials, Department Heads, Municipal Utility Division Managers, and non-union Supervisors, the City will provide life insurance in the face amount described in Exhibit B.

The terms of the long-term disability coverage, including the formula used to calculate the benefit and the waiting period before an employee may receive long-term disability benefits will be established by the City, as described in Exhibit B to this Policy Manual.

Section 18.03 Workers Compensation

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to their supervisor and make arrangements for a medical appointment.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

Pursuant to Minnesota State law, the officials of the City elected or appointed for a regular term of office or appointed to complete the unexpired portion of a regular term are included in the coverage of the Minnesota Workers' Compensation Act.

ARTICLE 19. HEALTH CARE SAVINGS PLAN

The City Administrator, Department Heads, Municipal Utility Division Managers and Non-Union Supervisors are eligible to participate in the Minnesota Health Care Savings Plan ("HCSP"). This plan is pursuant to the Minnesota Statutes, section 352.98 (as amended). Details regarding employees' participation in the Minnesota Health Care Savings Plan are included in Exhibit C. Employees should direct any questions about participation in this plan to the Human Resource Director.

ARTICLE 20. CAFETERIA PLAN

The City of Brainerd offers its employees a cafeteria plan. The plan allows employees to pay for health insurance premiums, and medical and/or dependent care expenses on a before-tax basis.

The flexible spending program is divided into three (3) separate accounts, which are summarized below:

A. Insurance Premiums Deducted from Paychecks: The amount of premium which is deducted per pay period for health insurance coverage per settled wage/benefits negotiations. Some voluntary insurance deductions may also be eligible.

B. Medical Expenses: Out-of-pocket medical, dental & vision expenses not covered by insurance.

C. Dependent/Childcare Expenses: Dependent care expenses for the care of a child under age 13 and/or a dependent regardless of age who requires care due to an inability to care for himself or herself.

The law limits the maximum contributions that employees can make to their flexible spending account and the specific expenses that can be paid out of such accounts. Employees should contact the Human Resources office for additional details.

Further information on the City's Cafeteria Plan may be obtained from the Human Resource Director.

ARTICLE 21. EDUCATION, TRAINING AND DEVELOPMENT

The City Council has determined that it is in the best interest of the City of Brainerd to support continuing education, training, and development of staff members in order that they may carry out their duties in the most efficient and productive manner possible.

To further this policy the City Council does authorize payment for education, training and/or staff development directly related to an employee's current position in order to increase his/her efficiency and productivity in that position in accordance with the following criteria and procedure.

Section 21.01 Education

The City may reimburse a regular employee for tuition expenses and course fees under certain circumstances. There shall be no reimbursement for mileage/parking expense. Qualifying tests (SAT, ACT, GRE, CLEP, etc.), required books, student activity fees, and material costs will not be reimbursed. Courses for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for reimbursement.

1. **Pre-Approval.** Prior to starting a class or classes, and in any event no later than August 1 of each year, the employee must obtain written approval from the employee's Department Head and the City Administrator or BPU Commission (for BPU employees only) that the class, certificate, or degree is job related and that the request would benefit the City. Specifically, the courses must be from an accredited institution and directly related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator or BPU Commission. Each approval shall be limited to a single course or academic term. Enrollment in a multiple-year course of study, or approval of reimbursement for any portion of such a course of study does not guarantee that funding will be available in subsequent years or that the City will approve any future course of study, even if related to one that was approved in the past. An employee who is requesting reimbursement for education expenses must have been a regular employee of the City for at least one year before the scheduled course is scheduled to begin.
2. **Satisfactory Completion.** The employee shall provide the Department Head with proof of satisfactory completion with a grade of "B" or better of any course requested for reimbursement, prior to reimbursement.
3. **Employees seeking reimbursement must present a paid fee statement and grade transcript in order to receive reimbursement.**
4. **Reimbursement for classes taken at private institutions shall not exceed the tuition charged by the Minnesota State University system.**
5. **Time Off.** If class is during the regular workday, an employee must take that time as compensatory time, vacation time, or leave of absence without pay, or the employee can request a flexible scheduling arrangement, subject to approval by the Department Head and City Administrator or BPU Commission (for BPU employees only). Classes or course work taken by the employee must not disrupt or interfere with the normal Departmental operations. Completion of preparatory work and homework are not permitted during scheduled work hours.
6. **Continued Employment.** The employee must remain with the City of Brainerd following completion of the course for which the City provided reimbursement pursuant to this policy, or else return to the City the expense amount(s) reimbursed pursuant to this policy. If the employee voluntarily terminates employment with the City after receiving education reimbursement pursuant to this policy, the employee must repay the reimbursed tuition immediately according to the following schedule:

- Up to 1 year after receiving reimbursement – 100% of the tuition reimbursement
 - 1 year but less than 2 years after receiving reimbursement – 66% of tuition reimbursement
 - 2 years but less than 3 years after receiving reimbursement – 33% of tuition reimbursement
 - 3 years or longer after receiving reimbursement – 0% of tuition reimbursement
7. Funding Procedure. Subject to paragraph 4, above, the City will reimburse its employees for tuition expenses up to a maximum of \$1,500 per calendar year with a total lifetime maximum of \$6,000. All reimbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of this reimbursement shall be defined and interpreted by the City Administrator or BPU Commission (for BPU employees only). Reimbursement is further limited based on availability of budgeted funds. Reimbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives reimbursement requests that exceed its budget allocation for education reimbursement, the Department Head and City Administrator (or BPU Commission, for BPU employees only) shall have the discretion to apportion the available funds, including the discretion to refuse reimbursement.
8. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting reimbursement after successful completion of classes.

Section 21.02 Training and Development

1. The City will pay for job-related, position specific training approved by the Department Head and City Administrator or BPU Commission (for BPU employees only) and deemed necessary to effectively complete the requirements of the position, provided there is adequate funding in the budget appropriation for training, as determined by the Department Head in consultation with the City Administrator or BPU Commission (for BPU employees only).
2. Subject to Paragraph 1 of this ARTICLE, the City will pay for, or reimburse employees for, any and all training required by the City, including training required to attain or maintain job-related certification. Payment of training and/or conference expenses must not exceed \$1,500 per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive approval by the City Administrator or BPU Commission for BPU employees.
3. Attendance at training or conferences out of state is generally approved only if the training or conference is not available locally. All requests for out-of-state

travel and/or national conferences that are applicable to their current position are reviewed for approval/disapproval by the City Administrator or BPU Commission for BPU employees.

4. The Department Heads will maintain records on all employee training done at City expense.
5. The procedure for payment for training and development is as follows:
 - a. A request for payment of fees and course materials must be approved by the City Administrator or BPU Department Head (for BPU employees only), or designee. Such approval will only be granted when it can be demonstrated that the training directly relates to the employee's present position and that it will potentially enable the employee to perform his/her duties in a more efficient and productive manner.
 - b. All course materials paid for by the City are the property of the City of Brainerd and shall be brought to the Department Head of the appropriate Department upon completion of the training.

For purposes of this policy, training and development will include seminars, workshops, and training sessions designed to provide specific applications to an employee's present position. Such training must be approved by the Department Head or the City Administrator.

The City Administrator may grant a leave of absence with or without pay to an employee for the purpose of attending schools, meetings, conferences, and other functions which are a benefit to the City of Brainerd, if, in the City Administrator's judgment such leave will not cause disruption of service.

All training and education opportunities described in this policy are subject to the availability of funds and the budgets of individual departments as well as the City's overall budget.

Section 21.03 Commercial Driver's License Training

The City may disburse tuition payments on behalf of an employee who is required to hold a Commercial Driver's License ("CDL") for CDL training from an approved CDL training provider. These disbursements shall be regulated by the below requirements. Training for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for disbursement.

1. Pre-Approval. Prior to starting a CDL training from an approved CDL training provider, and in any event no later than 30 days before said training shall occur, the employee must obtain written approval from the employee's Department Head and the City Administrator that the CDL training is job related, that the training is with an approved CDL training provider, and that the request would benefit the

City. Specifically, the training must satisfy training requirements for entry-level drivers under 49 C.F.R. §§ 380.600 – 380.609, including Behind-the-Wheel training curricula. The training must be related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator. Each approval shall be limited to a single CDL training program. Enrollment in a multiple-year program, or approval of disbursement for any portion of such training does not guarantee that funding will be available in subsequent years or that the City will approve any future program, even if related to one that was approved in the past. An employee who is requesting disbursement for CDL training must have been a regular employee of the City for at least 30 days before the scheduled course is scheduled to begin.

2. **Payment.** After approval of the course or program for which a tuition disbursement is sought, the City agrees to directly pay the approved CDL training provider, on behalf of the employee. Payment to the CDL training provider will be based on budgeted funds available for the current fiscal year and the number of employees with identical tuition disbursement agreements. The City will pay the training provider per training program as long as the invoice is submitted within the enrollment date determined by the CDL training provider. The City will only make payments to the CDL training providers towards the tuition for the CDL training for which tuition disbursement is sought. The City shall not be obligated to pay any amount towards non-tuition expenses, such as fees and expenses for books, technology fees, or other non-tuition amounts.
3. **Disbursement Agreement.** The employee must enroll in and complete the pre-approved CDL training and incur tuition expenses during their enrollment in order for funds to be disbursed under this Agreement. The City is not obligated to pay any amount under this Agreement, and any such obligation shall cease, if the employee does not complete the training, receives a failing grade, attends a non-approved CDL training provider, attends CDL training for which approval has not been received, resigns or abandons their employment with the City, or is terminated from their employment.
4. **Work Hours.** Pay for attending training shall follow IRS training requirements or the applicable collective bargaining agreement, whichever is greater. Employees shall have the opportunity to utilize comp time in lieu of overtime for said work hours. The CDL program must not disrupt or interfere with the normal Departmental operations.
5. **Repayment Obligation.**
 - a. The employee shall repay, within twelve months of the disbursement of the amount, any amount disbursed for tuition for any course or program:

- i. for which the employee does not complete the course work;
 - ii. in which the employee receives an incomplete or failing grade;
 - iii. that is from an unaccredited institution;
 - iv. that has not been approved by the City; or
 - v. that is not required for licensure.
 - b. Continued Employment. The employee must remain with the City of Brainerd following completion of the CDL training for which the City provided disbursement pursuant to this policy, or else return to the City the expense amount(s) disbursed pursuant to this policy. If the employee voluntarily terminates employment with the City after receiving disbursement pursuant to this policy, the employee must repay the disbursed tuition immediately according to the following schedule:
 - i. Up to 1 year after receiving disbursement – 100% of the tuition disbursement
 - ii. 1 year but less than 2 years after receiving disbursement – 66% of tuition disbursement
 - iii. 2 years but less than 3 years after receiving disbursement – 33% of tuition disbursement
 - iv. 3 years or longer after receiving disbursement – 0% of tuition disbursement
 - c. If the employee fails to repay any obligation owed hereunder within the time frame for repayment set forth herein, the City shall be permitted to collect any unpaid amounts, in any manner permitted by law. The employee shall be liable for any and all costs, including reasonable attorneys' fees, incurred by the City in instituting any action to recover the amount due.
 - d. The employee understands and agrees to these repayment obligations.
_____ (Initialed by employee)
6. Funding Procedure. Subject to paragraph 5, above, and approval by the City Administrator, the City will disburse tuition for employees for approved training expenses that have been approved by the City Administrator. All disbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of disbursement shall be defined and interpreted by the City Administrator. Disbursement is further limited based on availability of budgeted funds. Disbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives disbursement requests that exceed its budget allocation for education disbursement, the Department Head and City Administrator shall have the discretion to apportion the available funds, including the discretion to refuse disbursement.
7. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting disbursement.

ARTICLE 22. EMPLOYMENT RELATED REIMBUREMENTS

Section 22.01 Travel & Meal Reimbursement

If employees are required to travel outside of the area in the performance of their job duties, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred, consistent with this Policy.

Travel Approval

Each Department Head is responsible for ensuring that employee travel is approved only if such travel is for City business and is consistent with City policy. Department Heads are responsible for approving all travel requests within their respective departments and must ensure that departmental budget dollars are sufficient to cover requested travel prior to approving. Requests for travel by Department Heads must have prior approval by the City Administrator. The following approvals are needed prior to employee travel:

- 1) **Same Day with Overnight Travel** – Department Head approval is required.
- 2) **Out of State, More Than 300 Miles From Brainerd** – All out-of-state travel exceeding a 300-mile radius from Brainerd must be approved within the annual budget process which is approved by the City Council and BPU Commission. All employees must receive prior approval from their Department Head. Unless otherwise approved by the City Council or BPU Commission, an employee is only eligible to travel out-of-state more than 300 miles from Brainerd on City business once every other year.
- 3) **Out of State, Less Than 300 Miles From Brainerd** – All out-of-state travel within a 300-mile radius of Brainerd must be approved by the Department Head or City Administrator and does not require City Council or BPU Commission approval.

Such authorization must be received by the employee prior to incurring the actual expenses and shall be subject to the availability of funds and the terms of this Policy.

Reimbursable Expenses

1) Transportation

Several means of transportation exist and each travel request shall consider the least-costly method. For the majority of travel requests, a City vehicle provides the least cost to the City and shall be considered before any other means. Vehicles from other departments may be available and shall be a consideration. Unless otherwise authorized by the Department Head or City Administrator, all City-related transportation must be by City vehicle.

- a) **City Vehicle** – All direct expenses, other than personal expenses, incurred with regard to the use of a City vehicle will be reimbursed, including fuel, oil, and maintenance/repair expenses. Only City employees are authorized and insured to drive a city-owned vehicle. The use of a City vehicle is otherwise subject to the City's policies.

- b) **Personal Vehicle** – When a City vehicle is not available, a personal vehicle may be authorized for use. Mileage for use of personal vehicle when traveling to or from a training or work location other than the employee's regular work location is reimbursed at the rate established by the Internal Revenue Service, based on a statement from the employee as to number of miles traveled. All mileage must be computed from the employee's regular work location, or from home, if the employee's home is closer to the destination. For purposes of this policy, the term "regular work location" means the work location from which the employee departs for the regular performance of official duties.
- c) **Airplane/Other** – travel by any means other than by City-owned vehicle or personal vehicle must be approved by the City Administrator, regardless of whether the travel is in-state or out-of-state and regardless of the distance of the travel from the City of Brainerd. Reimbursement for travel by bus, airline train, taxi service, car service, rental car, or other mode of consumer transit will be at the actual rate charged (which must be the lowest rate available for the mode transportation in question). No payment will be made without a receipt accompanying the voucher.
- d) **Other related costs** – Reasonable parking fees, car rental, and fares for rail, bus, taxis and shuttles are all subject to reimbursement if related to City business. Taxis and shuttles reimbursement may include a maximum gratuity of 20%. Gratuities in excess of 20% will not be reimbursed by the City. A standard model sedan shall be used when renting a car unless unusual circumstances dictate otherwise.

2) **Lodging**

The City will reimburse the reasonable cost of lodging for training, seminars or conventions of two or more days generally if the event site is **outside a 50-mile radius** of Brainerd. All lodging expenses will be paid based upon receipt from the motel or hotel. The City will reimburse for lodging at the lowest rate for a single occupancy room. All hotels or motels must be approved by the City Administrator or applicable BPU Department Head (or designee) prior to booking.

An increase in lodging rate due to family members staying is not reimbursable. The employee will be reimbursed only the cost of a single occupancy room. All lodging reimbursements are subject to a maximum amount determined by the City Council and identified in the City's expense reimbursement form.

Lodging reimbursement will not be approved for lodging in the event the traveling employee could arrive at the destination on time by leaving Brainerd by 6:30 AM nor will reimbursement be approved if the employee could return to Brainerd by 9:00 PM. No reimbursement for lodging or time will be approved in the event the traveling employee elects to drive a personal vehicle in lieu of City recommended air travel. Entertainment expenses incurred will not be reimbursed, such as in-room movies, mini-bar and optional entertainment-type events including golf, gambling etc. that may be provided at conferences.

3) Meals

The City will reimburse the cost of job-related meals if an employee's travel is outside of the Brainerd/Baxter area or if a business meeting is held during typical meal hours. The following guidelines are in place for eligibility of reimbursement for a meal:

Breakfast: The employee is in travel status before 6:00 AM
Lunch: The employee is in travel status between the entire time of 11:00 AM and 1:00 PM
Dinner: The employee is in travel status until 8:00 PM

- a) Meetings scheduled and held during typical meal hours do not automatically necessitate that a meal will be provided at City expense. *The departmental issued credit card shall not be used to pay for meals.*
- b) The maximum amounts per meal and per day attached to the expense reimbursement form apply to the meal, non-alcoholic beverage, sales tax and gratuity.
- c) Gratuities paid by the employee over 20% will not be reimbursed.
- d) Payments for meals cannot be combined in any fashion in order to reimburse an employee for a meal costing more than the maximum amount listed per specific meal. For example, an employee cannot decline a breakfast and/or lunch reimbursement to justify reimbursement of a \$60 dinner.
- e) Meals included as part of a conference, convention, or similar program will be paid in full, whether those meals are included in any registration or tuition fees or presented as a separate charge, and regardless of whether the cost exceeds the established maximum. All such expenses must be approved in advance by the applicable Department Head prior to registration. The Department Head will notify the City Administrator upon approval of any such expenses. Employees are expected to take advantage of meals provided by the conference or seminar. The City will not reimburse an employee for a purchased meal when a meal was provided by the event.
- f) If more than one employee is present at a job-related meal, one employee may pay for the entire meal cost of all employees. The reimbursement request shall clearly identify each employee present for the meal and each employee for whom the employee purchased a meal.
- g) When family members are present for a meal and the employee is claiming reimbursement for his/her meal, a separate detailed receipt for the employee's meal shall be requested. The City shall not reimburse the employee for the cost of any family member(s)' meal.

4) Registration or Membership Cost

The City will reimburse the costs for registration, training and membership incurred to attend approved conferences, seminars and training sessions. A check request or credit card receipt shall be submitted to the City's accounts payable department prior to the event for payment of this type of cost, in addition

to obtaining the other approvals required by this Policy. The request shall include the necessary documentation evidencing the amount payable. A departmental credit card may also be used for payment based upon receipt of all necessary travel approvals prior to making payment. Departments shall strive to utilize any early registration discounts, when available.

5) Non-Reimbursable Meal and Travel Costs

- a. Alcoholic beverages – whether consumed by an employee or a non-employee
- b. Gratuities exceeding 20%
- c. Snacks and other food/beverages outside of the daily meal reimbursements
- d. Meals or events for spouses or family members traveling with an employee
- e. Meals when an event provides for a meal
- f. Private automobile expenses, including gas, oil, repairs
- g. Traffic citations or fines
- h. Travel between an employee's home and work facility
- i. Entertainment expenses
- j. In-room movies, mini-bar or other hotel services not required for City business
- k. Optional entertainment events unless included as part of the overall conference registration fee (e.g. optional golf, sporting events, concerts, and other performances)
- l. Personal losses incurred while on City business
- m. Other costs that are not directly related to City business, as determined by the City Administrator

City Representation

Employees shall be aware at all times that they are representing the City while traveling out-of-town for official City business. Employees given the opportunity to be away from their regular work site are expected to perform in a similar manner as if they were still at work, including following all applicable City policies as if they were at their regular work site. An employee's conduct during a work-related trip or while otherwise representing the City will be treated as if it occurred during regular working hours and at the regular work site. At no times shall alcoholic beverages be consumed by any person(s) driving or riding in a City vehicle.

Section 22.02 Prescription and Non-Prescription Safety Glasses

The City will pay the cost of prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions, up to a maximum of the base cost as stated in the City's agreement with a local vision provider(s). The employee is responsible for all other costs associated with obtaining the prescription, including eye examination.

The City will provide non-prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.03 Safety Boot Policy

The City will pay annually up to 50% of the cost for safety boots for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.04 Damage to Personal Items

An employee's personal items, such as watches and prescription eyewear, which are damaged or destroyed during the course of his/her work shall be reimbursed by the City for the value of the item damaged or the cost of the repair, if possible, up to \$450 per employee in a three (3) year timeframe. In order to receive such reimbursement, the employee must submit a detailed statement describing the item, how it was damaged, whether the employee believes it to be reparable, how the employee determined the value of the item, and any estimated costs of repair.

Section 22.05 Cold Weather Outerwear

Some employees may be required to work outdoors in cold weather for extended periods of time. The City will furnish each such employee one set of insulated cold weather outerwear at a frequency of no greater than once every 36 months, unless damaged beyond repair, as determined at the discretion of the Department Head. The cold weather outerwear will consist of three pieces – a coat, a vest, and a bib overall, and will be insulated brown duck canvas or ANSI, with a City of Brainerd insignia (or BPU insignia, as appropriate) on the coat. The employee will be responsible to keep his or her cold weather outerwear clean and in good repair at all times. The cold weather outerwear shall be kept at work at all times, except for the purpose of cleaning and/or repair to the outerwear.

Section 22.06 Personal Cell Phone Stipend

Employees whose work requires the use of a cell phone and who have been designated to receive a cell phone stipend by the City Council, or designee in their sole discretion will receive a monthly stipend in the amount determined by the City Administrator. At this time, no additional employees will be granted permission for this benefit. Employees receiving a stipend are responsible for:

- A. Providing proof of purchase/lease of cell service, and other documents prescribed by the City to activate and maintain stipend payments, at intervals to be determined by the City Administrator;

- B. Purchase, replacement, repair, or service or operational questions of the phone will be the responsibility of the employee and at the employee's sole expense;
- C. Using a secure password, PIN, or gesture to prevent unauthorized access;
- D. Procuring and maintaining cellular service from a reliable carrier who provides service in the City service area;
- E. Limiting personal use of the cell phone during work hours so as not to interfere with City business or the performance of the employee's job;
- F. Agreeing that their cell phone may be physically or remotely accessed, tracked, modified, or wiped based on City security needs.

The cell phone stipend is intended to cover approximate costs of the employee's cell phone expenses related to work duties. Initial purchase of the cell phone, accessory equipment, and activation fees will be the responsibility of the employee, as will maintenance, insurance, and repair costs (if any). The employee will pay any and all costs exceeding the amount of the cell phone stipend. No stipend will be paid when an employee is in an unpaid leave status for more than 30 days or duties change in such a manner which no longer justifies the payment.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal e-mails, text messages, and social media messages created, received, collected, maintained, or generated on an employee's personal cellular device by virtue of his or her position with the City are subject to those laws.

Section 22.07 Approval of Expenses

Employees shall submit an expense reimbursement claim no later than **60 days** from the date the expense was paid or incurred. Requests for reimbursement must be accompanied by a signed Employee Expense Reimbursement Form, as updated from time-to-time by the City. As discussed in this Policy, detailed, itemized receipts and other information shall be submitted with the claim for reimbursement, depending on the type of expense.

The City shall annually and periodically provide an updated Employee Expense Reimbursement Form. This form shall be used for all reimbursement requests related to approved travel or work-related expenses paid by an employee.

- 1) **Detailed Receipts** – each item submitted for City reimbursement must be supported by an itemized receipt indicating a reasonable explanation for the expense. All receipts shall be attached to each reimbursement request.
 - a. Meals will be reimbursed based on a detailed itemized receipt. When a

- credit card is used to purchase the meal, both an itemized receipt and a credit card charge slip indicating the tip amount shall be submitted.
- b. Receipts for parking and taxis may not be available and may be submitted for reimbursement without a receipt.
 - c. Mileage reimbursement for the use of a personal vehicle shall detail not only the mileage but also the location traveled and the business reason for travel.
 - d. Proper departmental expense codes shall be used for each line item.
 - e. Unsupported expenses will not be reimbursed. If an employee is unable to get a detailed receipt or the receipt is lost, a signed statement by the employee detailing the purchased item, the business reason for the expense and certifying that the claim is accurate must be submitted and approved by the Department Head. A copy of the employee's credit card statement may also be provided to help support the dollar amount being reimbursed.
- 2) Employees shall submit an employee expense reimbursement form with all necessary supporting documentation to the appropriate Department Head or designee for review.
 - 3) The expense form will be routed through the Accounts Payable process for payment and approval. Any issues will be communicated back to the employee for correction/clarification.
 - 4) The Finance department will make necessary corrections to reimbursement requests for mathematical errors, gratuities in excess of 20%, to remove any alcoholic beverages and other changes that may be necessary to comply with this policy.
 - 5) Reimbursement will be made with the next City Council check register, or payroll if the meal reimbursement is taxable.

Signing an expense voucher or request for reimbursement certifies the truth and correctness of the expense incurred. Knowingly submitting a false or inaccurate expense voucher, receipt, request for reimbursement, or other record may result in discipline, up to and including termination.

ARTICLE 23. DRUG-FREE WORKPLACE/ALCOHOL ABUSE POLICIES

Section 23.01 Drug-Free Workplace/Alcohol Abuse

It is the policy of the City to provide a drug-free environment. The City's goal is to establish and maintain a healthy and efficient workforce free from the effects of drug and alcohol abuse in compliance with the requirements of the federal Drug-Free Workplace Act of 1988 (as amended) and other applicable law. This requires employees abstain from using alcoholic beverages, cannabis, mood-altering drugs, and drugs that adversely impact performance, prior to the start of their workday, during the work period, during lunch and other work breaks. Any violation of this policy shall result in disciplinary action, up to and including discharge.

- A. The use of alcohol, cannabis, or the illegal use of drugs by an employee on duty can result in a dangerous work environment by negatively affecting job performance and the ability to function safely at work.
- B. The unlawful manufacture, distribution, transfer, possession, or use of drugs while on duty is strictly prohibited. Any such use may justify immediate discharge regardless of job performance. This provision does not apply to possession of drugs by sworn Police Department employees necessitated by their official job duties.
- C. Intoxication, possession, and unauthorized use of alcohol or cannabis while on duty is also prohibited and may justify immediate dismissal regardless of job performance. This provision does not apply to possession of alcohol or cannabis by sworn Police Department employees necessitated by their official job duties.
- D. Tolerance may be shown to an employee expressing a desire and willingness to receive treatment for their drug or alcohol use.
- E. Human Resources will provide any employee, upon request, information regarding alcohol abuse and drug dependency as well as information on available treatment programs.
- F. Confidentiality will be maintained, to the extent permitted by the Minnesota Government Data Practices Act and other applicable laws.
- G. It is the responsibility of the employee to correct his or her unsatisfactory behavior or job performance resulting from drug, cannabis or alcohol use.
- H. The Human Resource Director must be notified by the employee no later than five (5) calendar days following any criminal drug statute or alcohol related conviction

for a violation occurring in the workplace or any arrest or conviction of any criminal drug or alcohol offense.

- I. Violations of this policy may constitute cause for discipline, up to and including discharge. Each situation will be evaluated on a case-by-case basis depending on the severity and circumstances involved.

The City recognizes drug and alcohol abuse as potential health, safety and security problems. Employees needing help in dealing with drug and alcohol problems are encouraged to make use of the medical resources available through their health insurance plans.

Section 23.02 Drug & Alcohol Testing

The City has adopted Drug, Alcohol, and Cannabis Testing Policies, separate from the Employee Policy Manual, covering employees required to hold a commercial driver's license (CDL) or a non-commercial driver's license (non-CDL) to perform their job duties and other employees. All employees are required to sign a document that states that they have received a copy of the policy. Each employee must review the document and abide by its provisions. Copies can be obtained from the City Administrator's office and the Human Resource Director's office.

Section 23.03 Drug-Free Awareness Program

To assist employees in understanding the perils of drug and alcohol abuse, the City has established a Drug-Free Awareness Program. This drug and alcohol policy constitutes the City's drug-free awareness program and fulfills the notification requirements of the federal Drug-Free Workplace Act of 1988 (as amended). The City will use this program as an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The program will inform employees of the dangers of drug and alcohol abuse, explain the City's Drug and Alcohol Policy and the sanctions imposed for its violation, and highlight any treatment, counseling, and rehabilitation referral services that may be available to employees in the City. Nothing set forth in this policy is intended to conflict with state law.

An employee convicted of a criminal drug offense committed in the course of employment will be subject to appropriate disciplinary action and/or required to complete successfully an appropriate rehabilitation program at the employee's own expense unless provided to the employee through insurance coverage. The City, in its sole discretion, shall determine what disciplinary action is appropriate.

Section 23.04 Tobacco Use

A. PURPOSE

The City has established this policy regulating tobacco use in City-owned buildings and vehicles:

1. To comply with the Minnesota Clean Air act.
2. To respond to the increasing evidence that tobacco use creates a danger to the health of persons who use tobacco as well as persons who are present in a smoke-filled environment.
3. To promote a safe and healthy environment for staff and citizens and to set an example to the community in limiting tobacco use.

B. STATEMENT OF POLICY

1. All City-owned buildings and vehicles shall be tobacco-free which includes smoking, as defined by Minnesota Statutes, section 144.413, as amended, the use of tobacco products and electronic cigarettes, as defined in Minnesota Statutes, section 609.685, as amended. Park shelters are exempt from this policy to the extent provided by applicable law.
2. Tobacco use is prohibited within all City-owned buildings, this includes employee workstations, employee break areas, reception areas, storage areas, hallways, meeting rooms and all other areas inside buildings not specifically mentioned herein.
3. Within City-owned vehicles, smoking and other tobacco use is prohibited by any and all occupants.
4. All individuals on City premises share in the responsibility for adhering to and enforcing this policy. The responsibility for compliance is shared by employees, Supervisors, and the general public.
5. Employees hosting visitors are expected to inform them of the City's tobacco free policy.
6. Information on approved smoking cessation programs is available to City staff by the Human Resource Director.
7. Complaints of violation of the policy should be directed to the Department Head

responsible for the particular work area or facility involved in the complaint. The Department Head shall be responsible for notifying the violator of the pertinent portions of this policy. Failure to comply with the policy may result in discipline, up to and including immediate termination, if the violation is committed by an employee, or may result in the individual being asked to leave the City's premises, if the violation is committed by a member of the public.

ARTICLE 24. EMPLOYEE SAFETY MANUAL

The City has adopted an Employee Safety Manual, separate from the Employee Policy Manual. All employees are required to sign a document that states that they have received a copy of the manual. Each employee must review the manual and abide by its provisions. Copies can be obtained from the City Administrator's office or the Human Resource Director's office.

ARTICLE 25. POLITICAL ACTIVITY

City employees have the right to vote as they please, to express their personal opinions on political subjects in their capacity as individuals and retain membership in political parties.

An employee may be a candidate for partisan or non-partisan public office provided that no employee shall campaign for such office during actual hours of work. City employees' political activity may be subject to state and federal laws including, but not limited to, the federal Hatch Act, the Minnesota Fair Campaign Practices Act, and Minnesota Rules part 9575.0080, and all amendments thereto.

No employee will be permitted to express any view on any legislative protocol, candidate for office, elected official, or other topic on behalf of the City unless expressly approved to do so by the City Council or designee. Any and all lobbying activities undertaken, or purportedly undertaken, on behalf of the City must be approved in advance by the City Administrator and comply with the City's expectation and direction for such activities.

The City prohibits employees from participating in political activities on City time, using City resources, or while performing City functions, except as required by law. Employees must not identify themselves as a City employee by either appearance or declaration while expressing personal political opinions.

ARTICLE 26. HARASSMENT

It is the policy of the City that harassment and inappropriate conduct of employees is prohibited. The City seeks to promote a professional work environment where employees can perform their jobs free from abuse by others. This policy applies to all of the City's employees while performing their duties as employees within or outside the

workplace. For purposes of this policy, employees include all individuals who are hired, elected, appointed, or contracted to provide services to the City.

Harassment is unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, or degrading environment, or interferes with or adversely affects a person's work performance based on race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

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 productive performance.

A. STATEMENT OF POLICY

It is the policy of the City that harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The desired standard of employee behavior is one of cooperation and respect for each other, despite any differences. Employees have a right to a workplace free of verbal and/or physical harassment.

B. SEXUAL HARASSMENT

1. Definition

For purpose of this policy, sexual harassment is defined as physical or verbal conduct relating to an individual's gender or directed at an individual because of gender, unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual or gender-related nature when:

- a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or continuing employment or a basis for employment decisions affect that individual; or
- b. submission to or rejection of that conduct or communication by an individual is used as a factor in any employment decisions affecting the individual or decision related to the individual's access to public services or public accommodations affecting said individual; or
- c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public service, or public accommodation, or of creating an intimidating, hostile or offensive

employment environment.

A single act or communication may constitute sexual harassment.

2. Examples of Conduct that can Constitute Unlawful Sexual Harassment

Examples of sexual harassment include, but are not limited to, the following:

- a. Unwelcome subtle or overt pressure for sexual activity.
- b. Repeated, unwelcome suggestions regarding, or invitations to, social engagements or work-related social events.
- c. Verbal abuse or innuendo of a sexual nature.
- d. Unwelcome physical contact such as touching, hugging, patting, pinching, pawing, poking, or slapping.
- e. Any unwelcome sexual or sexually motivated touching.
- f. Comments of a sexual nature about an individual's body or sexual terms used to describe an individual.
- g. Display or distribution of sexually suggestive or sexually explicit objects or pictures, including cartoons, articles, pictures, and other graphics which have a sexual conduct and which are not necessary for work.
- h. Jokes or remarks of a sexual nature to, or in the presence of, people who may find them offensive.
- i. Prolonged staring or leering at a person.
- j. Use of suggestive facial expressions, gestures of a sexual nature, or sexually suggestive or insulting sounds.
- k. Any demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment or other indication, express or implied, that an employee's job security, assignment, opportunities for advancement, or other terms or conditions of employment may depend on the granting of sexual favors to any other employee, supervisor, elected official, or manager.
- l. Any action relating to an employee's job status, which is taken as a direct result of the granting or refusal of social or sexual favors.
- m. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.
- n. Indecent exposure.
- o. Other physical or verbal conduct directed at another because of sex or gender.

Normal, courteous, mutually respectful, pleasant, non-coercive interactions between people that are acceptable to both parties are not considered to be sexual harassment.

C. OTHER PROTECTED CLASS HARASSMENT

Other protected class harassment is offensive conduct or communication based on an individual's race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), color, creed,

religion, national origin, sexual orientation (including gender identity or expression), disability, age, marital status, familial status, status with regard to public assistance, or any other characteristic protected by state or federal law when:

1. Submission to such unwelcome conduct or communication is made either explicitly or implicitly as a term or condition of obtaining or retaining employment or access to public services or accommodations;
2. Submission or rejection of such unwelcome conduct or communication by an individual is used as a factor for any employment decision or decision related to the individual's access to public services or public accommodations affecting said individual; or
3. Such unwelcome conduct or communication has the purpose or effect of substantially interfering with any person's employment, public services or public accommodation, or creating an intimidating, hostile, or offensive work environment.

D. Department Head/Supervisory Responsibilities

Department Heads and Supervisors are responsible for maintaining a work environment free of sexual harassment and other protected class harassment. It is their responsibility to ensure that all employees comply with the City's Policy. Department Heads and Supervisors must respond promptly and appropriately to both allegations and confirmed reports of harassment.

In the absence of a complaint, Supervisors and Department Heads observing conduct that may constitute prohibited harassment in the workplace are responsible for calling such behavior and this policy to the attention of the participants at the time of the observance. A written summary of the discussion shall immediately be forwarded to the City Administrator.

Supervisors and Department Heads receiving complaints or reports of alleged inappropriate conduct shall immediately forward a report to the City Administrator prior to taking any action on the complaint. The City Administrator or designee will make the determination as to whether, and to what extent, an investigation is warranted, who will investigate, and what methods will be used in the investigation.

Failure of a supervisory employee to immediately forward reports of observances or complaints to the City Administrator shall be grounds for disciplinary action, up to and including termination of employment.

E. Employee Responsibilities

All City employees are expected to treat all other employees and the public with respect and to comply with this policy. Any employee found to have violated this policy will be subject to appropriate disciplinary action, up to and including discharge from employment.

F. Complaint Procedure

Any employee who believes he or she is being subjected to sexual harassment or other protected class harassment in any form, or any employee with knowledge or belief of conduct on the part of another employee or other individual which may constitute a violation of this policy, is required to report the alleged conduct immediately to a Supervisor, the Department Head, or the City Administrator. While the City encourages written reports of the alleged conduct, verbal reports will be accepted. The individual receiving the report should be prepared to supply the following information:

1. Date, time and location of incident
2. Identification of the offender(s)
3. A detailed description of the incident
4. Any materials in the complaining employee's possession related to the incident (e.g. cartoons, articles, pictures)
5. Identification of any potential witnesses to the incident

Additionally, at the time of the incident, if you are the employee being subjected to the inappropriate behavior and feel comfortable in doing so, you may, but are not required to, courteously, but firmly, tell the individual(s) engaging in the inappropriate behavior to stop the behavior because the behavior makes you feel intimidated, offended or uncomfortable. Include a summary of this discussion in your report to the Supervisor or City Administrator.

Any Department Head or other supervisory employee who receives a formal or informal, oral or written report of harassment shall inform the City Administrator immediately without screening or investigating the report, unless the City Administrator is involved or has a conflict of interest, in which case the report shall be made to the Mayor pursuant to the reporting procedures. Failure of any supervisory employee of the City to forward such a report to the appropriate party shall be grounds for discipline.

By the authority of the City Council, the City Administrator, upon receipt of a report or complaint of sexual harassment or other protected class harassment, shall undertake or authorize an investigation. The investigation may be conducted by City Officials or by a third party designated by the City.

The City may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.

The investigation methodology will be determined by the investigator depending on the specifics of each complaint. Investigations typically include, at a minimum, interviews with the reporting employee, the complaining employee (if different from the reporting employee) and alleged offender(s). The investigation methodology may additionally include additional interviews, document review and other methods deemed pertinent by the investigator.

G. Confidentiality

Records maintained pursuant to this policy are subject to the Minnesota Government Data Practices Act, the Minnesota Records Retention Act, and other applicable laws. Subject to those laws, every effort shall be made to respect the privacy of the parties to a complaint, without compromising the thoroughness of the investigation.

H. No Reprisal for Filing Complaint of Harassment

The City will not tolerate acts of retaliation against employees who have made a good faith report of suspected violations of this policy or any person who assists in the investigation of such a complaint regardless of the outcome of such investigation. The City will discipline or take other appropriate action against any employee who engages in acts of retaliation toward these individuals. For purposes of this policy, retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

I. Disciplinary Procedure

1. An employee who violates this policy will be subject to disciplinary action up to and including discharge.
2. Any employee who prevents or attempts to prevent an individual from reporting a suspected violation of this policy or who interferes in any way with the investigation of such a report will be subject to disciplinary action, up to and including discharge.
3. Any employee who retaliates or discriminates against an individual who reports a suspected violation of this policy or assists in the investigation of such a report will be subject to disciplinary action, up to and including discharge.
4. Supervisor, managers, or Department Heads who become aware of violations of this policy in their department, even in the absence of a formal complaint, shall take appropriate disciplinary action, in consultation with the City Administrator.
5. Any non-employee found to have violated this policy may be removed from the City property or other appropriate action may be taken.

The Data Practices Act may allow individuals who are not directly involved with the complaint to access records related to the complaint in certain circumstances.

ARTICLE 27. GRIEVANCES

It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. For purposes of this policy, a grievance is defined as a dispute or disagreement as to the interpretation or application of the City's personnel policies.

Employees shall have the right to present grievances either individually or as a group. Grievances shall be presented to the City Administrator in writing, within five (5) calendar days of the occurrence of the alleged grievance.

The City Administrator shall respond to an employee's grievance within fourteen (14) calendar days after receiving the alleged grievance. The decision of the City Administrator is final, except that when the City Administrator is directly involved in the grievance, appeal may be made to the Personnel and Finance Committee for final decision within fourteen (14) calendar days of the City Administrator's decision. In such an appeal, the Personnel and Finance Committee's decision is final. In the event that the City Administrator does not respond to the grievance within fourteen (14) calendar days of receipt, the grievance shall be considered denied for purposes of the appeal time period discussed above.

In compliance with federal or state law, an employee may also grieve any alleged unsafe act or practice, adverse working conditions, violation of civil rights, and alleged hazardous materials management.

Concerns that employees have should not go directly to individual members of the City Council. The City Council acts as a body and not as individuals. Likewise, individual Council members giving direction to staff without the knowledge of the City Administrator is inappropriate. Again, the City Council gives its direction, as a policy making body, to the staff through the Administrator.

ARTICLE 28. DISCIPLINE AND DISCHARGE

Section 28.01 At-Will Employment

City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including failure to observe proper workplace conduct adopted by the City Council. It is the policy of the City to administer disciplinary penalties without discrimination. Except for probationary employees and as expressly described in this Policy, employees may use the grievance procedure as per the personnel policy with

respect to any disciplinary action. To the extent feasible, the supervisor or department head shall gather relevant information before reporting the incident to the Human Resource Director. At the direction of the Human Resource Director, the supervisor or department head may gather additional relevant information and investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

Nothing in this Policy shall be interpreted as altering the City employees' status as "at-will" employees or creating any type of "just cause" standard for discipline or termination. When determining whether to impose discipline, including termination, the City may consider all relevant factors, including, but not limited to, the seriousness and frequency of misconduct, and the employee's discipline history.

Grounds for discipline and discharge will include, but is not limited to the following:

- A. Incompetence, ineffectiveness, or inefficiency in the performance of duties;
- B. Criminal conduct which would constitute a felony, gross misdemeanor, or misdemeanor except as limited by Minnesota Statutes, Chapter 364 (as amended);
- C. Violation of any City policy, procedures, work rule, regulation or City ordinance, including the provisions of this manual and any safety and/or health policies and procedures;
- D. Being under the influence of alcohol, cannabis, drugs, or controlled substances while performing duties for the City, while on City premises, or while acting as a representative of the City off premises;
- E. Discourteous, hostile, insulting, abusive, or inflammatory conduct toward the public, a fellow employee or fellow employees, a supervisor or supervisors, a member of the City Council or members of the City Council, or a member of any City commission, or members of any City commission;
- F. Theft, misuse, carelessness and/or negligence in the handling or control of City property or property entrusted to the employee by the City, including allowing unauthorized persons to ride in City vehicles, or the unauthorized appropriation of City property for the employee's own use;
- G. Inducing or attempting to induce a person, officer or employee of the City to commit an unlawful act or to act in violation of any City policy, procedure, regulation, ordinance, or workplace directive or order;
- H. Dishonesty in the performance of duties;

- I. Sleeping during work hours;
- J. Willful misconduct or insubordination;
- K. Acceptance of a gift under circumstances from which it could be inferred that the giver expected or hoped for preferred or favorable treatment in conduct of City business and/or acceptance of a gift in violation of applicable law or City policy;
- L. Unapproved use of paid work time and/or equipment in outside employment or for personal benefit;
- M. Falsely stating or falsely making claims of injury or illness;
- N. Gambling while on duty, on City property, or using City equipment or resources;
- O. Inability to perform the essential functions of the employee's job, whether due to physical or mental impairment, or otherwise;
- P. Any possession, sale, distribution, possession, or unauthorized use of alcohol, cannabis, or controlled substances, during working hours and/or while representing the City;
- Q. Unexcused absence from work;
- R. Tardiness in reporting to work;
- S. Improper reproductions or misuse of copyrighted materials;
- T. Theft of City property or personal belongings of others;
- U. Abuse of official position with the City to achieve personal, political, or financial gain;
- V. False or inaccurate claims for reimbursement of expenses;
- W. Disorderly, abusive, or indecent conduct that causes disruption of the work environment, including fighting;
- X. Unauthorized possession of weapons on City property;
- Y. Allowing unauthorized visitors into unauthorized City offices and locations;
- Z. Unauthorized disclosure of private, confidential, or nonpublic data;
- AA. Failure or refusal to comply with City or department regulations, policies, or

procedures; and

- BB. Any other conduct which, in the discretion of the City, constitutes a breach of the standards of behavior which it should reasonably expect of its employees.

Employment at the City may be terminated at the will of either the employee or the City, at any time, and for any legal reason or no reason.

Section 28.02 Procedures

- A. Discipline may be in one or more of the following forms, although **the City of Brainerd reserves the right to take any disciplinary action at any time:**
1. oral reprimand;
 2. written reprimand;
 3. suspension;
 4. demotion; or
 5. discharge.
- B. Suspension, demotion and discharge will be in written form and will state the reasons for such action.
- C. Reprimands, notice of suspension, and notice of discharge are to become part of an employee's personnel file. The employee will receive a copy of any reprimands and/or notices.
- D. Employees receiving a written reprimand, suspension, demotion, or discharge shall be given a copy of the discipline document and sign the original, acknowledging that he or she has received the written reprimand, suspension, demotion, or discharge. The signature of the employee does not necessarily indicate that he or she agrees with the disciplinary action. If the employee refuses to sign the original written reprimand, suspension, demotion, or discharge, such refusal will be noted on the discipline document. All written discipline will be placed in the employee's personnel file.
- E. Consistent with applicable law, employees may examine their own individual personnel files at reasonable times under the direct supervision of the City Administrator or designee.

Section 28.03 Supervisory Authority

- A. Oral and Written Reprimands. Department Heads have the authority to impose oral and written reprimands without prior approval of the City Administrator. The Department Head must maintain a record of each verbal reprimand. A verbal

reprimand may not be appealed or submitted through the grievance process.

B. Suspension. The City Administrator may suspend an employee.

C. Demotion and Discharge. An employee may be demoted or discharged by recommendation of the City Administrator and final determination by the City Council.

Section 28.04 Right of Appeal

An employee may appeal an oral or written reprimand verbally or in writing to the City Administrator within five (5) work days after disciplinary action has been imposed. The City Administrator will make the final determination and will inform the employee in writing regarding the decision made.

An employee may appeal a suspension without pay, or recommendation for demotion or discharge to the City Council by requesting, in writing, that a hearing be conducted for that purpose. Such request must be made by the employee to the City Administrator within five (5) days after disciplinary action has been imposed. At its sole discretion, the City Council may hold the hearing at its next regularly scheduled meeting or any date within thirty (30) days of such meeting. The City Council has the sole discretion to conduct the hearing or to appoint a subcommittee to conduct the hearing. If the City Council appoints a subcommittee, the subcommittee shall make its recommendation to the City Council at the next regularly scheduled meeting of the City Council following the hearing. The decision of the City Council will be final.

If the appeal is upheld by the City Council, the employee shall receive all payments, benefits and service accrual which the employee would have earned during the period of suspension without pay, demotion or discharge and be reinstated to the position.

For purposes of the Minnesota Government Data Practices Act, the initial disciplinary decision constitutes the final disposition of a disciplinary matter, unless the employee files a timely appeal with the City Council. In such cases, the City Council's decision constitutes the final disposition.

The procedures described in this Section are employees' exclusive remedy for challenging a disciplinary action using these Personnel Policies. The grievance procedure described in Article 27 is not applicable to disciplinary decisions.

ARTICLE 29. ACCIDENT PROCEDURES

As a City employee, it is important that you are aware of certain procedures to be followed if you are injured on the job or involved in an accident while operating City equipment. These procedures have been established to protect your interests as an employee, as

well as protect the City.

Employees shall comply with all federal and state laws and rules concerning vehicles and their safe operation. Safety devices, such as seat belts, lights, horns, etc., shall be utilized.

Compliance with speed limits, safe driving procedures, and proper licensing requirements will be enforced by the City.

Employees are responsible for performing routine checks (i.e., tire pressure, oil, turn signals, lights) before operating a City-owned vehicle.

If you are involved in an accident while operating any City-owned vehicle or piece of equipment, or while engaged in City business with any hired or privately-owned vehicle:

- A. Notify the police and/or emergency medical services, as appropriate, by dialing 911, and your supervisor IMMEDIATELY.
- B. Request that all parties and property concerned remain at the scene of the accident, if possible, until a law enforcement representative has released them.
- C. Obtain identifying data from the driver of the other vehicle (i.e. name, address and insurance company).
- D. Secure names and addresses of injured persons and any witnesses to the accident.
- E. Employee responsibility is to refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, appropriate City officials, and representatives of his or her own insurance company, if the employee's privately-owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations. A copy of all police reports and any statements attached thereto will be forwarded to City Administration or designee within one day of receipt by the employee(s) involved in the accident.
- F. Employees shall refrain from admitting fault or liability and must gather all applicable loss data, witnesses, injured parties, passenger names, vehicle and driver's license numbers.

Employees who sustain personal injury or illness in any work-related accident are **REQUIRED** to report the injury to their supervisor immediately (no matter how minor). Once your supervisor has been notified of an accident, he/she will inform you of the steps to be taken to properly report and record the occurrence. Your supervisor may also direct

you to proper medical attention where necessary. If it is necessary for you to complete an "Employee Incident" form, it should immediately be completed and returned to your supervisor. If it is necessary for you to miss work because of a work-related accident, it is your responsibility to keep your supervisor Informed of the date you are able to return to work. In most instances, your treating physician will provide you with that information during your initial visit.

Please remember that following these simple procedures not only ensures accurate record keeping of accidents and personal injuries as required by law, but also protects your interests as an employee. For your own protection, be sure to report any accidents and injuries you may have, no matter how small.

Employees using a City-owned vehicle may be held liable for accidents in which he or she is involved. Employees will be personally responsible for paying any citation or other criminal sanction received while operating a City-owned vehicle.

ARTICLE 30. STATEMENT OF POLICIES AND PROCEDURES FOR PAYMENT AND/OR REIMBURSEMENT OF COSTS AND ATTORNEY'S FEES FOR MUNICIPAL OFFICERS AND EMPLOYEES

The City may reimburse its employees or officers for costs and reasonable attorney's fees incurred by an employee or officer, to the extent permitted by Minnesota Statutes, section 465.76.

ARTICLE 31. TECHNOLOGY USE

General Information

This policy serves to protect the security and integrity of the City of Brainerd's electronic communication and information systems by educating employees about appropriate and safe use of available technology resources. All employees are responsible for reading and following information that may be distributed from time-to-time about appropriate precautions to protect City systems.

City-owned computers, cellular telephones, mass storage devices, and related equipment used by City employees are property of the City. Except when accessed by the police department for law enforcement purposes, the City specifically reserves the right to audit, monitor, and inspect, without notice, without the user's consent, and for any reason or no reason, employees' use of its computers and related equipment and all data, emails, files, settings, or any other aspect of a City-owned computer or related system, including personal information created or maintained by an employee. An audit may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation.

All City owned equipment, including, but not limited to, computers, laptops, telephones, mobile devices, field electronics, mass storage devices, e-mails, voice mail, text messages on City paid cellular telephones, or any other type of equipment provided are City property. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion. City employees and other users shall have no expectation of privacy in any property or equipment of the City.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal messages and internet logs, created, received, collected, maintained, or generated by City employees or using the City's computer and/or related equipment are subject to those laws. In accordance with applicable law, such files and documents may be disclosed in certain circumstances without the permission of the employee or user.

Users should notify IT staff upon learning of violations of this policy. Violation of this policy may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation. All violations will be addressed consistent with the City's Personnel Policies or applicable union contract.

Data Privacy and Retention

All data stored on computers, related equipment, and media owned, leased or rented by the City is considered to be owned by the City and is subject to the MGDPA, which governs its use and dissemination. All city owned equipment and Information Technology Systems, including e-mail, are City property and subject to inspection by the City at any time, without notice, and for any reason or no reason at all. The City Administrator or Human Resource Director should be contacted with questions regarding the classification of public and private data.

Data Ownership: All information developed or introduced to a City computer or related equipment by a user in conjunction with employment with the City is the property of the City.

Data Storage: All City data must be saved to a network drive on a City server or City provided resource.

Data Deletion: Users are responsible for deleting outdated files that are no longer needed for compliance with the City Records Retention Schedule; this includes data files and email messages that do not need to be retained in accordance with the City's Records Retention Schedule. The City Administrator should be contacted with questions regarding the City Records Retention Schedule.

Data Back-up: The IT department backs up most data stored on network servers or cloud storage. Workstation hard drives or any other devices are not backed up and are subject to failure and may result in permanent data loss.

Personal Use

The City offers employees the privilege of limited personal use of City-owned computers and related equipment. Personal use is allowed under the following guidelines and only during break times or before/after normal paid working hours:

- Only City employees may use City-owned equipment. Family members or friends of City employees are not allowed to use City equipment or technology resources.
- Employees shall not connect personal peripheral tools or equipment (such as cell phones, USB drives, flash drives/cards, disks, digital cameras, or printers) to City-owned systems, without prior approval from IT staff. If permission to connect these tools/peripherals is granted, the employee must follow provided directions for protecting the City's computer network.
- Personal files should not be stored on City computer equipment. This also applies to personal media files, including but not limited to personal documents, images, audio and video files. IT staff may delete these types of files if found on City-owned equipment. Exceptions would be recordings for which the City has created, owns, purchased, or has a license.
- City equipment or technology, including City-issued email accounts, shall not be used for: illegal activities, personal business interests, for-profit ventures, political activities, outside employment, public office or employment which is incompatible with City employment, wagering, betting, or selling chances, annoying or harassing other individuals, fund-raising except for City-approved activities, religious activities, pornographic, obscene, or indecent images or content, forwarding junk email, advertisements, or chain emails, or other uses deemed by City management to be inconsistent with City activities. If any employee has a question as to whether a use is appropriate, that employee must contact the City Administrator or applicable Department Head for permission before

engaging in the conduct in question.

- The City reserves the right to monitor end user activity. Software and/or hardware may be used to monitor, filter, block, or limit internet activity. The City may inspect any data or information stored on its equipment or network, even if the information is personal to the employee.

Hardware

In general, the City will provide the hardware required for an employee to perform their job duties. Requests for new or different equipment should be made to the Department Head, who may consult with IT staff.

Unapproved hardware, including cameras, mobile devices, printers, external storage devices, and any other peripherals that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited. IT staff may, without notice, remove any unauthorized equipment attached to the City's computer system or network.

The City will not supply mobile devices, including computers, based solely on the desire of employees to work offsite. A business need will be required for each mobile device deployment and must be approved by the Department Head. In general, mobile devices will only be issued to employees who: regularly use their device offsite; require a device for access to special software or systems; have a documented business need for a device; and/or require the use of a device while traveling.

Employees are responsible for the proper use and care of City-owned computer equipment. City employees are expected to provide reasonable security to all City-owned computers and related equipment. This includes ensuring that passwords comply with this policy. Removable media must be kept in a secured area. Non-public, private, and/or confidential data must not be displayed in such a manner that unauthorized personnel or others can view or access it. All City-owned computers and related equipment must be secured while off City premises. For instance, employees must not leave computer equipment in an unlocked vehicle or unattended at any offsite facility. Computer equipment must not be exposed to extreme temperature or humidity.

Software

In general, the City will provide the software required for an employee to perform their job duties. Requests for new or different software should be made the Department Head, who may consult with IT staff.

Unapproved software or downloads (free or purchased), games, screen savers, toolbars, clipart, music/audio, and movie/video clips, that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited.

Employees shall not download or install any software (free or purchased) or addons (such as toolbars or clipart) on any City computer or related device without the prior approval of the IT staff. The only exceptions to this policy are updates to software previously approved by IT such as anti-virus, anti-malware, etc. IT staff may, without notice, remove any unauthorized programs or software, downloads, or other files on any City computer, related equipment, network, or electronic resource.

Electronic Mail

The City provides most employees with an email account for work-related use. Minimal personal use of the City email system by employees is allowed, provided it does not interfere with an employee's work and is consistent with all City policies. Using the City's email to participate in any kind of personal listservs or mailing list is prohibited.

Employee emails, including those that are personal in nature, may be considered "public" data for both e-discovery and information requests and may not be protected by privacy laws. Personal e-mail transmitted through or saved on the City's e-mail system, computers, network, or other technological resources, may also be monitored as directed by the City Administrator or BPU Commission (for BPU employees only) and without notice to the employee.

In addition, employees must adhere to these email guidelines:

- Do not open email attachments or links from an unknown sender. Review sender's email address, date/time, subject line, and name and file type of attachments to verify legitimacy/relevance. Delete junk or "spam" email without opening. Do not respond to unknown senders.
- Never transmit an email that you would not want your supervisor, other employees, members, city officials, or the media to read or publish (e.g., avoid gossip, personal information, profanity, etc.).
- Use caution or avoid corresponding by email on confidential communications (e.g., letters of reprimand, correspondence with attorneys, medical information).
- Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.

- Employees' email use must otherwise comply with all applicable provisions of this policy, all other applicable City policies, and all applicable laws.

Electronic Calendars

A shared calendar environment is provided as part of the City's email software program. All employees are encouraged to keep their electronic calendar up-to-date and may grant relevant staff the ability to view their calendar. All employees are encouraged to utilize the out-of-office automatic replies for known absences.

Phone/Voicemail

Voicemail that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network for storage. All other voicemails should be deleted from the voicemail system (and email system) when no longer needed. Voicemail may be considered "public" data or otherwise subject to disclosure in accordance with the MGDPA. Employees should contact IT staff with any questions about voicemail storage and/or deletion.

Presence/Instant Messaging

Employees who are provided with the City's presence / instant messaging (IM) software should remain logged in when working and may utilize it for communications between City staff. Instant messaging may be considered "public" data, or otherwise subject to disclosure in accordance with the MGDPA and must be kept in accordance with the City's records retention requirements if they constitute an official record of City business. Employees are not allowed to download or install any unapproved messaging software on City devices.

Intranet (Sharepoint)

Employees should keep the City's Intranet (Sharepoint) as their web browser home page and are encouraged to utilize the documents, announcements, links, and calendars to remain informed and share information with other staff.

Storing and Transferring Files

If you are unsure whether an email or other file is a government record for purposes of records retention laws or whether it is considered protected or private data under the MGDPA or other law, you must check with the City Administrator or applicable BPU Department Head (for BPU employees only) before deleting or releasing the information or file in question. If you are unsure how to create an appropriate file structure for saving

and storing electronic information, contact IT staff.

Employees must adhere to these guidelines when transferring and storing electronic files:

- All electronic files should be stored on network drives or approved web or cloud-based storage locations. IT staff will not back up documents stored on local computer hard drives and hold no responsibility for recovery of documents on local computer hard drives should they fail. Subject to the provisions of this policy, files may be temporarily stored on a mobile device when an employee is offsite; however, the files should be copied to an approved storage location when possible.
- Electronic files created on an employee's personal device or computer must not be transferred to the City's network. City-related files should not be created or stored on an employee's personal device or computer.
- All removable storage media (e.g., CDs, flash or USB drive, or other storage media) must be verified to be virus-free utilizing an IT approved process before being connected to City equipment.
- Email that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network or other approved location for storage.
- Email that is simple correspondence and not an official record of City business should be deleted when no longer needed.
- Electronic files or emails that contain nonpublic, private, or confidential data should be stored in a location on the City's network that is properly secured.

Any files containing nonpublic, private, or confidential data should not be stored anywhere other than the City's network or other approved location. Employees must obtain the prior approval of the Department Head before taking any file containing nonpublic, private, or confidential data offsite.

Personal Devices

Employees with prior approval may choose to use their own equipment to read or compose email or other City data as governed in this policy. Employees understand that by connecting their personal equipment to the City's email system, their personal devices could be searched during an e-discovery or other court-ordered scenarios and agree to grant access to their personal devices should such a situation arise.

Passwords

Employees are responsible for maintaining computer/network passwords and must adhere to these guidelines:

- Passwords must meet minimum complexity requirements designated by IT staff. Employees must change passwords when prompted or as scheduled by IT Staff.
- Multi-factor authentication methods should be used when available for web/cloud-based applications. Multi-factor authentication is an additional layer of security beyond just a username/password and generally requires a code or acknowledgement on a physical device or a code sent by a separate means of communication.
- Passwords should not be shared with anyone including other staff. If it is necessary to access an employee's computer when they are absent, contact your supervisor; IT staff will not provide access to staff accounts without prior approval.
- Passwords should not be stored in any location on or near the computer or stored electronically such as in a cell phone or other mobile device unless properly secured.

Computers and other devices should not be left unattended while a user is logged in- either lock the computer when away (Win+L or Ctrl+Alt+Del) or use a timed screen saver that will require a password to unlock upon return.

Network Access

Non-City-owned computer equipment used in City buildings should only use the public wireless connection to the Internet. Under no circumstances should any non-City-owned equipment be connected to the City's computer network wirelessly or via a network cable.

Exceptions may be granted by IT staff.

Personal computer equipment may not be connected to the City's network without prior approval of the IT staff. Personal equipment may be subject to password requirements or other electronic security measures as determined by IT staff.

Staff shall not attempt to circumvent or disable firewalls, anti-virus/anti-malware software, software updates and patches, network/computer security settings, or any other measures put in place to protect the network. If access to necessary resources is

obstructed, notify supervisor and/or IT staff to explore options.

Remote Access to the Network

Examples of remote access include, but are not limited to: Virtual Private Network (VPN), TeamViewer, and Windows Remote Desktop connections. While remotely connected to City computer resources, all aspects of this Technology Use Policy will apply, including the following:

- Telework opportunities and remote access to the City's network requires a job specific reason and/or a request from a supervisor to the City Administrator. Remote access privileges may be revoked at any time by an employee's supervisor, Department Head, the City Administrator or IT staff.
- If remote access is from a non-City-owned computer, updated security software (anti-virus and anti-malware) must be installed and operational, and all critical operating system updates must be installed prior to connecting. Failure to comply could result in the termination of remote access privileges.
- Remote access/assistance from third parties is not allowed without prior approval from IT staff. When remote access/assistance from a third party is granted, their activities must be monitored by City Staff.
- Recreational use of remote connections to the City's network is strictly forbidden. An example of this would be a family member utilizing a City's cellular data connection to access the internet.
- Private or confidential data should not be transmitted over an unsecured wireless connection. Wireless connections that are not secure could pose a security risk if used to transmit passwords or private data. Unsecure wireless connections may include cellular networks and wireless access points unless proper security protocols are in place.

Security Compromise

If a virus or malware is suspected on any City device, IT staff must be notified immediately. Any other indications of computer or network security compromise must be reported to IT staff immediately.

Internet

The internet is available to employees for research, education, and communication directly related to the mission, charter, and tasks of the City. Users must honor copyright laws regarding protected commercial software and intellectual property. Users accessing the internet through the City's computers and related equipment should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource. Users are also responsible for adhering to City standards when browsing the internet. Failure to adhere to City standards puts the City and the individual at risk of legal or financial liabilities, potential embarrassment, and other consequences, including immediate termination of employment and other disciplinary actions. The following considerations apply to all uses of the Internet:

- Information found on the Internet and used for City work must be verified to be accurate and factually correct.
- Approved web browsers include Microsoft Edge, Mozilla Firefox, Apple Safari, and Google Chrome. Usage of other browsers requires prior authorization from IT staff.
- Browsing history including cookies, passwords, and temporary files should be cleared from web browsers frequently or set to automatic delete.
- Limited personal use of the Internet is permitted. Employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races, or religions. If you are unsure whether a site may include inappropriate information, you should not visit it.
- City data should not be stored in any web or cloud-based application that has not been provided or approved by IT staff.
- If an employee's use of the internet is compromising the integrity of the City's network, IT staff may temporarily restrict that employee's access to the internet. If IT staff does restrict access, they will notify the employee and the employee's supervisor as soon as possible, and work with the employee and supervisor to rectify the situation.
- Social media use on City owned computers should be limited to maintaining the City's social media presence. Personal use of social media on City owned computers is discouraged.
- Peer-to-peer software/applications are not permitted.

- All staff internet use must comply with all applicable provisions of this policy, all other applicable City policies, and all applicable law.

The City may monitor or restrict any employee's use of the internet without prior notice, as deemed appropriate by the employee's supervisor, the City Administrator, or IT staff.

Personal Social Networking on City-Owned Devices

Employees should not use City-owned devices to post to personal sites, including social networking sites. Employees' personal use of City-owned devices should be minimal and must not interfere with their work duties. All personal social networking and other personal use of the City-owned devices must comply with the terms of this policy.

Personal Social Networking While Off Duty and the City's Responsibility

The City of Brainerd has a duty to protect the reputation of the organization and its employees as well as guard against any liability and potential legal risk regardless of when and where social networking activity occurs. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. With this in mind, employees must use social media (Facebook, X (Twitter), blogs, YouTube, etc.) in a manner that follows the following guidelines:

- Individuals should exercise caution and good judgment when social networking.
- Individuals shall not represent that they are speaking or acting on behalf of the City or presenting any interests of the City.
- Individuals are not permitted to display the City of Brainerd logo on any part of their online profiles.
- Individuals never have the right to post non-public, private, or confidential data, such as information related to co-workers personnel data, medical information, or claims or lawsuits against the City, without obtaining the express written consent of the data subject and/or City Administrator as

appropriate.

- Individuals who use personal social media accounts are not immune from the law. In general, all users of social networking should be aware that the content of these social networking sites can be subpoenaed and used in criminal and civil trials.
- Individuals need to be aware that they have no reasonable expectation of privacy when social networking and use of personal social media accounts are subject to all pertinent City policies, as well as local, state and federal laws.
- The City of Brainerd expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race (including traits associated with race, including, but not limited to hair texture and hair styles such as braids, locs, and twists), creed, color, religion, age, sex, marital status, national origin, sexual orientation (including gender identity and expression), disability, status with regard to public assistance, or any other characteristic protected by state or federal law.
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the city (e.g., Brainerd Cop).
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.

ARTICLE 32. SOCIAL MEDIA POLICY

The City has adopted a Social Media Policy, separate from the Employee Policy Manual. The Social Media Policy describes the rules and procedures for the administration of City social media accounts. Copies can be obtained from the Human Resources Department.

ARTICLE 33. TELECOMMUTING/REMOTE WORK POLICY

The City has adopted a Telecommuting/Remote Work Policy, separate from the Employee Policy Manual. The Telecommuting/Remote Work Policy describes the situations in which qualifying employees may be allowed to work from home and the conditions on any opportunity to work from home afforded to any employee. Copies can be obtained from the Human Resources Department.

ARTICLE 34. QUESTIONS OR CONCERNS

All employees are required to be familiar with, and abide by, the terms of these policies. Department Heads and the Human Resource Director are ready to answer questions, or to further explain and obtain information about any phase of this manual which is not clear. All employees should feel free to ask questions of their Department Head, the Human Resource Director, and the City Administrator.

Reviewed and adopted by the City Council

Date: (NOTE: To be updated with date approved by Council).

ACKNOWLEDGMENT

I acknowledge that I have received a copy of the City of Brainerd Personnel Policy. I understand that this document contains important information regarding the City's general personnel policies and my privileges and obligations as an employee. I will familiarize myself with the personnel policy and I understand that I am governed by its contents. I further understand that the personnel policy is not an employment contract and that the City may change, rescind or add to any policies, benefits, or practices at its sole discretion with or without prior notice.

Employee Signature

Date

Employee Printed Name

Department

EXHIBIT A

HEALTHCARE INSURANCE PREMIUM CONTRIBUTIONS

- CITY ADMINISTRATOR, DEPARTMENT HEADS, AND SUPERVISORS:

The following premium splits and Employer HSA contributions will be effective for our 2024 High Deductible Health Plan Smart Plan options:

Smart Plan #1 - \$1,600	<u>2024</u>
<u>% of Contribution to Monthly Premium</u>	
<u>Employer</u>	
Single	95%
Family	80%
<u>Employee</u>	
Single	5%
Family	20%
HSA Annual Contribution	
<u>Employer</u>	
Single	\$1,000
Family	\$1,500

Smart Plan #3 - \$3,200	<u>2024</u>
<u>% of Contribution to Monthly Premium</u>	
<u>Employer</u>	
Single	95%
Family	80%
<u>Employee</u>	
Single	5%
Family	20%
HSA Annual Contribution	
<u>Employer</u>	
Single	\$2,000
Family	\$2,500

Smart Plan #7 - \$6,150 **2024**% of Contribution to Monthly PremiumEmployer

Single	97%
Family	85%

Employee

Single	3%
Family	15%

HSA Annual Contribution

Employer

Single	\$2,250
Family	\$2,750

Smart Plan #8 - \$8,050 **2024**% of Contribution to Monthly PremiumEmployer

Single	100%
Family	90%

Employee

Single	0%
Family	10%

HSA Annual Contribution

Employer

Single	\$2,500
Family	\$3,000

All plans are automatically indexed annually.

- All additional employer HSA contributions amounts noted above will be pro-rated based on a monthly contribution.
- The City will provide an Opt-Out Option for eligible employees in lieu of the city's health insurance for 2024. If the eligible employee elects the Opt-Out payment for 2024, the monthly Opt-out taxable payment will be \$400 per month.
- The base City health insurance plan for union contract comparison is Smart Plan No. 3 (\$3,200 High Deductible Health Insurance Plan for 2024).
- The City will pay 100% of the single and family premium for the Department Heads and Supervisors hired or promoted to such a position before May 1, 2010.

ELECTED OFFICIALS/BRAINERD PUBLIC UTILITIES (BPU) COMMISSIONERS:

- Health insurance options for this group includes the following City contributions for the City-sponsored base health insurance plan (Smart Plan No. 3 - \$3,200 Deductible Plan for 2024):
 - 100% of the premium if single health coverage is elected.
 - 80% of the premium if family health coverage is elected.
- If a member of this group elects a different health plan, the individual will pay the premium difference based on the premium split for the base plan as set forth in the previous bullet.
- If someone is covered by a different group plan and is eligible to receive the City's Opt-Out payment, individuals in this group can elect to receive \$250 per month as taxable income in lieu of the health insurance benefit.

The City's contribution for all other employees is set in the applicable collective bargaining agreement and/or Council resolutions.

The City provides insurance coverage for former City employees including retirees on a self-pay basis pursuant to state law. Please refer to your Group Insurance Plan booklet for a complete description of benefits.

EXHIBIT B

LONG-TERM DISABILITY COVERAGE AND LIFE INSURANCE

- I. **Long-Term Disability Coverage.** Should an employee become disabled as a result of a non-occupational injury or illness, the City will provide long-term disability coverage to cover 50% of your gross monthly income to a maximum of \$7,084 per month. This plan takes effect the 1st day of the month coincident with or next following six months of continuous employment.
- II. **Face Amount of Life Insurance for Certain Employees and Elected Officials.** Consistent with the Policy Manual, the City will provide life insurance coverage to elected officials, Department Heads, Municipal Utility Division Managers, and non-union supervisors in the following amounts: Mayor, City Council and Public Utilities Commission \$50,000; City Administrator, Department Heads and Municipal Utility Division Managers \$100,000; Non-union supervisors \$50,000.

Employees should review the applicable Summary Plan Descriptions for additional details for said policies.

EXHIBIT C

MINNESOTA HEALTH CARE SAVINGS PLAN CONTRIBUTIONS

All funds collected by the City on behalf of the employee for purposes of contributing to the Minnesota Health Care Savings Plan will be deposited into the employee's individual health care savings plan account as follows:

1. City Administrator, Department Heads and Municipal Utility Division Managers:
 - a) Employees eligible for severance pay as outlined in ARTICLE 13 of the City Employee Policy Manual will contribute 100% of their severance pay into the Plan.
 - b) Employees with 0 to 4 years of service will contribute 1% of gross pay each payroll period.
Employees with 5 to 9 years of service will contribute 1.5% of gross pay each payroll period.
Employees with 10 to 14 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 to 19 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 or more years of service will contribute 5% of gross pay each payroll period.
 - c) 50% of sick leave and ESST accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Health Care Savings Plan contribution.
 - d) 100% of accumulated vacation at retirement will be paid into the Plan.
2. Non-Contract Supervisors:
 - a) Employees eligible for severance pay as outlined in ARTICLE 13 of the City Employee Policy Manual and have 25 years or more of service, will contribute 100% of their severance pay into the Plan.

- b) Employees with 0 to 10 years of service will contribute 1% of gross pay each payroll period.
Employees with 10 to 15 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 – 20 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 - 25 years of service will contribute 4% of gross pay each payroll period.
Employees with 25+ years of service will contribute 5% of gross pay each payroll period.
- c) 50% of sick leave and ESST accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's post-employment health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Post Employment Health Care Plan contribution.
- d) 100% of accumulated vacation at retirement will be paid into the Plan.

EXHIBIT D

Earned Sick and Safe Time Employee Notice

Employees in Minnesota are entitled to earned sick and safe time, a form of paid leave. Employees must accrue at least one hour of earned sick and safe time for every 30 hours they work, up to at least 48 hours in a year. A year for purposes of the employee's earned sick and safe time accrual is a calendar year.

The earned sick and safe time hours the employee has available, as well as those that have been used in the most recent pay period, must be indicated on the employee's earnings statement that they receive at the end of each pay period. Earned sick and safe time must be paid at the same hourly rate employees earn from employment. Employees are not required to seek or find a replacement for their shift to use earned sick and safe time. They may use earned sick and safe time for all or part of a shift, depending on their need.

Earned sick and safe time can be used for:

- an employee's mental or physical illness, treatment or preventive care;
- the mental or physical illness, treatment or preventive care of an employee's family member;
- absence due to domestic abuse, sexual assault or stalking of an employee or their family member;
- closure of an employee's workplace due to weather or public emergency or closure of their family member's school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that an employee or their family member is at risk of infecting others with a communicable disease.

Notifying employer, documentation

An employer can require their employees to provide up to seven days of advance notice when possible (for example, when an employee has a medical appointment scheduled in advance) before using sick and safe time. An employer can also require their employees to provide certain documentation regarding the reason for their use of earned sick and safe time if they use it for more than three consecutive days.

If an employee plans to use earned sick and safe time for an appointment, preventive care or another permissible reason they know of in advance, inform your supervisor by as far in advance as possible, preferably seven (7) calendar days, and shall

schedule appointments so as to have the least impact on the business of the employer. In situations where an employee cannot provide advance notice, the employee should contact their supervisor as soon as they know they will be unable to work.

Please ask the HR Department for a copy of the Earned Sick and Safe Time Policy for more information.

Retaliation, right to file complaint

It is against the law for an employer to retaliate, or to take negative action, against an employee for using or requesting earned sick and safe time or otherwise exercising their earned sick and safe time rights under the law. If an employee believes they have been retaliated against or improperly denied earned sick and safe time, they can file a complaint with the Minnesota Department of Labor and Industry. They can also file a civil action in court for earned sick and safe time violations.

For more information

Contact the Minnesota Department of Labor and Industry's Labor Standards Division at 651-284-5075 or dli.laborstandards@state.mn.us or visit the department's earned sick and safe time webpage at dli.mn.gov/sick-leave.

EXHIBIT E

Nursing Mothers, Lactating Employees, and Pregnancy Accommodations employee notice

Minnesota's Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law (Minnesota Statutes § 181.939) gives pregnant and lactating employees certain legal rights.

Pregnant employees have the right to request and receive reasonable accommodations, which may include, but are not limited to, more frequent or longer breaks, seating, limits to heavy lifting, temporary transfer to another position, temporary leave of absence or modification in work schedule or tasks. An employer cannot require an employee to take a leave or accept an accommodation.

Lactating employees have the right to reasonable paid break times to express milk at work unless they are expressing milk during a break that is not usually paid, such as a meal break. Employers should provide a clean, private and secure room that is not a bathroom near the work area that includes access to an electrical outlet for employees to express milk.

It is against the law for an employer to retaliate, or to take negative action, against a pregnant or lactating employee for exercising their rights under this law.

Employees who believe their rights have been violated under this law can contact the Minnesota Department of Labor and Industry's Labor Standards Division at dli.laborstandards@state.mn.us or 651-284-5075 for help.

Employees also have the right to file a civil lawsuit for relief. For more information about this law, visit dli.mn.gov/newparents.



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Discuss BPU Commission's Recommendation for a Work Group Formation

AGENDA: P&F Committee

ACTION REQUESTED: Discussion Item

SUBMITTED BY: Patrick Wussow, Interim City
Adminstrator

DEPARTMENT: Administration

PRESENTER: Patrick Wussow, Interim City
Adminstrator

ESTIMATED TIME (MIN): Ten Minutes

SUMMARY OF ISSUE: The City of Brainerd Public Utilities Commission has requested a meeting (November 2023) with the City Council to discuss utility and street projects and timelines in the City of Brainerd. The City Council has already scheduled a joint meeting, January 22, 2024, with the Commission to discuss and make sure lines of communication are open. Additionally, the Commission created a working group to discuss with the City Council the role of the City's Utility Commission that they wish to discuss on January 22nd. I have included a copy of a document that was present to the Commission at their December meeting. For added background, I have attached the related city charter and minutes from the joint meeting held between the City Council and the City of Brainerd Public Utilities Commission in June 2022.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: No Action Necessary Preparation for Joint Meeting

FINANCIAL IMPACT: NA

CHAPTER SIX

PUBLIC UTILITIES COMMISSION

1. The Public Utilities Commission shall control, operate and manage the following utilities of the City:
 - a. Water works system, including the filtration plant, water towers and distribution system.
 - b. Wastewater system, including the wastewater treatment facility, force mains and lift stations, but not including the gravity fed wastewater collection system, which is operated by the Public Works Department.
 - c. Electric generation and distribution system.
 - d. Except as provided above, all other public utilities that are hereafter owned by the City.
2. Such Commission shall upon the appointment and qualification of its members, and at such times as it may see fit organize and re-organize such Commission, and in such organization and re-organization, shall appoint from its members a President and Vice-President and shall also appoint a Secretary who shall not be a member of the Commission.
3. The Secretary of the Commission or his/her designee shall attend all meetings of the Commission and keep a record of all proceedings.

. The Secretary shall perform such other and further duties as may be prescribed or directed by said Commission.
4. The City Council shall employ all necessary help for the Commission to properly perform its duties and approve all terms and conditions of employment. Personnel for vacant positions may be recommended by the Commission to the City Council. All Commission personnel are subject to the City's personnel policies.
5. Subject to state law, the Commission shall have power to fix all rates to be paid by consumers of water, wastewater and power, and to make and enforce such rules, regulations and penalties as they may deem proper to affect such collections and to protect all property and rights pertaining to the said departments.
6. The Public Utilities Commission shall have power to institute, prosecute and defend, in the name of the City of Brainerd, all actions which they may deem proper to carry out and enforce their authority as such board; but no real estate or easement shall be acquired by purchase or condemnation proceedings.

No water or wastewater utility listed in Paragraph 1 may be extended beyond the existing service territories unless the City Council shall so order the same by a

resolution passed by a majority vote of all its members. With respect to water and wastewater utilities, the "service territories" are defined as those areas of the City served by existing mains and laterals. Service lines from mains and laterals to customer structures may be extended under the sole authority of the Public Utilities Commission.

The service territory for the electrical utility is established by the Minnesota Public Utilities Commission. Any extension of the electrical utility outside the service territory by contract with another utility shall be approved by the City Council. Any extension of the electrical utility within the service territory, or any contract with another utility to provide power within the Commission's service territory, shall be approved by the Commission.

7. The Commission shall, at the first meeting of the City Council, in December of each year, present an operating budget for the following year as well as a five year capital improvement plan outlining anticipated future capital expenditures. The budget shall set forth all expenditures that can be anticipated for the operation of the Commission, during said fiscal year, and when approved, in whole or such part as may be approved by the City Council, shall constitute the authority for the Commission to make such expenditures, subject to the provisions of this Charter. The Commission shall have the power to purchase and pay for all supplies necessary for the management of said business, when so approved by the City Council either as a part of said budget or by resolution of the City Council authorizing same, except that the Commission shall have the power to purchase supplies and machinery in case of sudden and extraordinary injury to said plants, making such purchases and contracts necessary to repair the same.
8. The Commission's Finance Director shall keep a complete set of accounting records showing in detail all the business and financial affairs and transactions of the Commission and shall receive and safely keep all funds belonging to the Commission in a bank or depository designated by the City Council. All funds shall be deposited in the name of the Commission, and all investments shall be subject to state law and the City of Brainerd Investment Policy. The Commission shall make financial transfers to the City in amounts as specified in Brainerd Public Utilities Policy 2003-01, as amended and approved by the City Council.

Pursuant to due call and notice thereof, the Joint Workshop of the Brainerd City Council and Public Utilities Commission was called to order at 5:00 P.M. by Council President Bevans.

Upon roll call, the following members were noted as present: Erickson, O'Day, Stunek, Johnson, Stenglein, and Bevans. Mayor Badeaux was noted as present at 5:11 p.m. Members of the Public Utilities Commission noted as present were Angland, Wussow, and Matten at 5:07 p.m. Also present were City Administrator Bergman, HR Director Schubert, Finance Director Hillman, BPU Superintendent Magnuson, BPU Finance Director Wicklund, and HR Assistant Boser.

Discussion on the Draft Employee Policy Manual

HR Director Schubert gave an overview of the reasoning for the review of the Employee Policy Manual. She stated that the Employee Policy Manual was adopted in 2019, staff began work to revise the manual due to employment law changes and the desire by Department Head for more input. The changes were put on hold to accommodate time for the Charter changes that affected the manual. HR Director Schubert reviewed the major changes to the Employee Policy Manual for discussion.

Council and Commission discussion took place around changing the responsibility of BPU Department Head performance reviews to the City Administrator.

Member O'Day clarified whether there were employment law concerns previous to the charter revision. He also stated that aside from having Jennifer present for BPU Department Head reviews with members of the Commission, the day-to-day work of the Commission will not change.

BPU Finance Director Wicklund stated that he does not agree with the need for the City Administrator to conduct BPU Department Head performance reviews because he speaks weekly with members of the Public Utilities Commission (PUC) and feels they know his position and it dilutes the responsibilities of the Commission.

City Administrator Bergman stated that consistency is important for uniformity across all City employees. She stated that with the Charter changes, the only duties of the Commission that changed are personnel, the Commission is still in charge of all of the utility decisions. These changes are also being proposed for pay equity across departments.

HR Director Schubert stated that the last two vacant Department Head positions have had a hiring committee for filling the position. Also with, employment law and changes over the past 10 years or so, having consistency across all employees is the best way to minimize the City's possible liability exposure.

Member Johnson stated that a compromise could be to define how the hiring committees for Department Heads are comprised to guarantee the Commission is a part of discussion.

HR Director Schubert inquired if the City should consider a Work From Home Policy in the Employee Policy Manual. She noted that job applicants and current employees have inquired about the possibility.

Member Johnson stated the Work From Home Option is very common now in the private sector and felt it should be included.

Review of the Contribution Policy Between City Council and Public Utilities Commission

BPU Finance Director Wicklund stated that with the addition of two crypto mining operations in the City, BPU will have a lot of cost to get the companies online. He proposes reducing the industrial rate per kilowatt hour (kWh) for these two projects that is contributed to the City. That rate can be reviewed in 18 months once more is known regarding the crypto mining. He proposes that the rate be reduced from .0030 to .00025 with a review of the policy at one year. This is not a rate drop for the customer, it is a reduction in the contribution from BPU to the City for utility costs.

Discussion on the Use of the Roberts Land

BPU Superintendent Magnuson stated that the Roberts land sale is not final, it is still in review by the attorneys. He also stated that a modern water plant may be needed in the future. The ideal spot for a new plant would be on the west edge of the property. He is requesting that the City hold off on making plans to develop the land until the review of the current water plant is complete.

Adjourn

The Chair adjourned the workshop at 6:06 P.M.

Jennifer Bergman
City Administrator

Brainerd Public Utilities Commission (BPUC)
And
City of Brainerd
DRAFT Responsibilities and Authority Related to Operation of BPUC
As Defined in Chapter Six of City Charter

Item No.	DRAFT Role or Authority	BPUC	City of Brainerd
1	Control, Operate, and Manage the following Utilities of the City:		
	a. Water works system, including the filtration plant, water towers and distribution system	x	
	b. Wastewater system, including the wastewater treatment facility, force mains and lift stations	x	
	c. Gravity fed wastewater collection system		x
	d. Stormwater collection system		x
	e. Electric generation and distribution system	x	
2	Appoint from its members a President and Vice-President and Secretary who is not a member of the Commission	x	
3	Secretary will attend all meetings of the BPUC and keep a record of all proceedings	x	
4	Employ all necessary help for BPUC to properly perform its duties and approve all terms and conditions of employment		x
	a. Hiring BPUC staff		x
	b. Directing BPUC staff	x	
	c. Public Utilities Director reporting pertaining to:		
	1. Personnel matters		x
	2. Operation of utility other than personnel matters	x	
	d. Setting wages/correspondence with wage consultants		x
	e. Negotiating union contracts		x
	f. Reporting to regulatory agencies	x	
	g. Emergency response chain of command	x	
	h. Preparation of audited financial statements	x	
5	Personnel for vacant positions may be recommended by BPUC to City Council		x
	All BPUC personnel subject to City personnel policies		x

Item No.	DRAFT Role or Authority	BPUC	City of Brainerd
7	Power to fix all rates to be paid by consumers of water, wastewater and power, and to make and enforce such rules, regulations and penalties as they may deem proper to affect such collections and to protect all property and rights pertaining to BPUC	x	
8	Power to institute, prosecute and defend, in the name of the City, all actions deemed proper to carry out and enforce authority	x	
9	Acquired by purchase real estate or easements and condemnation proceedings and issuance of all debt issues		x
10	Extension of water or wastewater utility services beyond existing service territories which are defined as those areas of the City served by existing mains and laterals		x
11	Service lines from mains and laterals to customer structures may be extended under the sole authority of BPUC	x	
12	Extension of the electrical utility outside the service territory by contract with another utility		x
13	Service territory for the electric utility is established by the MN Public Utilities Commission. Extension of the electrical utility within the service territory, or any contract with another utility to provide power within the BPUC's service territory	x	
14	BPUC at first City Council meeting in December present an expenditure operating budget as well as five-year capital budget. Once approved in whole or or such part as may be approved by Council will constitute the authority for BPUC to make such expenditures, subject to the provisions of Charter.		x
15	Power to purchase and pay for all supplies necessary for the management of BPUC when approved by the Council either as a part of said budget or by resolution of Council authorizing same	x	
16	Power to purchase supplies and machinery in case of sudden and extraordinary injury to utilities, making such purchases and contracts necessary to repair the same	x	

Item No.	DRAFT Role or Authority	BPUC	City of Brainerd
17	BPUC Finance Director will keep a complete set of accounting records showing in detail all the business and financial affairs and transactions of BPUC and will keep all BPUC funds in a bank designated by Council. All funds deposited in the name of BPUC and all investments are subject to state law and City Investment Policy.	x	
18	BPUC will make financial transfers to City amounts specified in BPUC's Policy 2003-01, as amended and approved by Council.	x	x



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Ratify the Hiring of Recreation Specialist Haley Blank

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director, Jessie Dehn, Public Works Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: We received 17 applications for the Recreation Specialist position and 8 candidates were interviewed. Staff offered the position to Haley Blank who will be starting with us on January 17, 2024, at Step 2 of the 2023 Recreation Specialist wage grid (\$30.56 per hour).

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: Ratify the hiring of Haley Blank effective January 17, 2024; further, that she be placed on Step 2 of the Recreation Specialist wage grid (\$30.56 per hour).

FINANCIAL IMPACT: This position was included in the 2024 budget.



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Approval of Classification Points as Recommended by Flaherty & Hood.

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: As required by State Law, the City of Brainerd must assign pay equity points for our job classifications. In October 2022, the City hired Flaherty & Hood PA (FH), to help us review our points and to complete a market study to get us back into pay equity compliance. We have now officially completed the points appeals process; therefore, the final points are being presented to the City Council for review and consideration. Attached you will find the updated City position points.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Please note that the Council must officially approve the updated classification points in order to resubmit our pay equity report by January 31, 2024.

RECOMMENDED ACTION/MOTION: Motion to approve the final pay equity points for each job classification as presented.

FINANCIAL IMPACT:

City of Brainerd Job Evaluation Points

Positions are listed in descending order based on the the "Job Evaluation Points" from highest to lowest points.	
Job Class	Points
City Administrator	898
City Engineer/Public Works Director	876
Public Utilities Director	834
Police Chief	820
Finance Director/ Deputy City Clerk	814
IT/GIS Director	805
Fire Chief	799
HR Director	792
Operations Manager	790
Finance Manager	769
Water/Wastewater Manager	768
Community Development Director	727
Deputy Police Chief	720
Electric Distribution Supervisor	713
IT Supervisor	712
Fire Marshal/ Deputy Chief	659
City Building Official	656
Assistant City Engineer	654
Maintenance Electrician	630
Electric Line Crew Chief	616
IT Specialist	605
Police Lieutenant	596
Street and Sewer Foreman	577
Transit Coordinator	573
WW Crew Chief	571
Senior Engineering Tech/Project Coordinator	568
Police Administrative Supervisor	559
Business Office Supervisor	558
Police Sergeant (Patrol Sergeant)	539
Water Plant Chief Operator	537
Hydro Lead/Relief Operator	537
Utilities Senior Engineering Tech/Project Manager	525
Journeyman Electrician	511
Accountant I	506
Police Officer (Patrol/Investigator/Criminal/ School Resource)	490
Journeyman Lineworker	487
IT/Data Analyst	485
Recreation Coordinator	473
Maintenance Mechanic	461
Building Inspector	456
Engineering Tech	455
Environmental Resources Technician	434
Meter Serviceworker	434
Water Crew Chief	424
Assistant Planner	422
Sewer Lead	418
Parks Foreman	418
Hydro Operator/Mechanic	403
WW Operator	401
Police Records Management Lead	399
HR Assistant	393
Maintenance III	391
Payables/Payroll Specialist	351
Administrative Specialist - Accounts Payable	350
Maintenance II	346
Water Operator	330
Water Plant Relief Operator	330
Hydro Operator	324
Meter Tech/Locator	322
Administrative Specialist - Fire	309
Credit/Collections Representative	309
Billing Representative	309
Parks Maintenance	288
Water Service Worker	288
Administrative Specialist - Payroll	287
Maintenance I	267
Administrative Assistant/Dispatcher	267
Administrative Specialist - Public Works	267
Administrative Specialist - Finance	267
Administrative Specialist - Community Development	267
Facilities & Grounds Maintenance	266
Police Records Management Technician	262
Facilities Custodian	260
Laborer	251
Apprentice Lineworker	251
Business Office Support Specialist	243
Accounts Receivable Representative	243
Cashier/Postal Specialist	243
Materials Control	240
Community Service Officer	182



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Approval of Earned Sick and Safe Time Policy.

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director

DEPARTMENT: HR

PRESENTER: Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: During the 2023 MN Legislative Session, a new law was passed implementing Earned Sick and Safe Time (ESST) leave. ESST will now require that all employees that work a minimum of 80 hours in a year to start accruing 1 hour of ESST for every 30 hours worked effective January 1, 2024. Per State of MN guidelines, all employers are required to have a policy in place. Attached is a draft ESST Policy for Council's review and consideration.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: Motion to approve the Earned Sick and Safe Time Policy as presented.

FINANCIAL IMPACT: This law is an unfunded mandate and the financial impact is unknown at this time. Staff has tried to reduce the financial impact by utilizing our current sick leave for full-time employees so that ESST hours are earned as part of our normal sick leave accrual; however, the ESST eligible uses are much more broad than our current sick leave policy. ESST leave is a new benefit for our temporary and part-time employees (such as our Paid on-call Firefighters) who will now be eligible for the new ESST leave beginning January 1, 2024.

EARNED SICK AND SAFE TIME POLICY

A. Designation of Sick Leave as Earned Sick and Safe Time

Effective January 2024, the first 48 hours of Sick Leave earned each calendar year by current full-time employees as well as the first 48 hours of Sick Leave earned by any new hire thereafter shall be designated as Earned Sick and Safe Time (ESST) pursuant to Minn. Stat. § 181.9445 and may be used for any of the purposes of that statute and for those family members set forth therein.

B. Carryover Year to Year

An employee may earn and carryover up to a maximum of eighty (80) hours of their unused Earned Safe and Sick Time (ESST) from year to year. Year to year shall be calendar year. The first partial year of employment shall constitute a year for the purposes of this policy.

C. Earning ESST

Sick leave/ESST benefits shall only accrue when an employee is in compensated payroll status. Sick leave/ESST benefits shall not be earned by any employee while in a non-pay status.

For those part-time and/or temporary employees not covered by a collective bargaining agreement or other personnel policy granting sick leave, ESST shall accrue at the rate of 1 hour for every 30 hours worked if the employee works 80 hours in the year. Please see the Sick Leave section of the Employee Policy Manual regarding the accrual for full-time employees.

D. ESST Use

ESST may be used for:

1. An employee's own or family member's need for illness, injury, medical or mental health care, or preventative medical or mental health care.
2. Absence due to domestic abuse, sexual assault, or stalking of employee or their family member. The employee may take leave to assist family member to seek medical care for related physical or psychological injury or disability, obtain services from Victim Services organization, obtain counseling, relocate or secure their or to receive legal advice, take legal action or prepare for any related legal proceeding.
3. Closure of the employee's workplace due to weather or a public emergency.
4. Employee's need to care for a family member whose school or place of care has been closed due to weather or public emergency.

5. Employee's inability to work or telework because:
 - a. The employer prohibits them from working due to potential transmission of illness related to a public emergency.
 - b. Seeking or awaiting the results of test or diagnosis of communicable disease related to a public emergency due to exposure or at the employer's request.
6. When a health care professional determines employee should quarantine because of exposure to a communicable disease regardless of if they contracted the disease.

Sick/ ESST leave shall be taken in 15-minute increments.

E. Definition of Family: For the purpose of using ESST time, an employee's family shall include those individuals identified by Minn. Stat. 181.9445 Subd. 7.

The employee's, their spouses, or their registered domestic partner's:

- a. Child, Foster Child, Adult Child, Legal Ward or Child In-Law
- b. Spouse or registered Domestic Partner
- c. Sibling, Stepsibling, Foster Sibling
- d. Parent, Stepparent, Foster Parent
- e. Grandparent, Step-Grandparent
- f. Grandchild, Step-grandchild, Foster Grand Parent
- g. Sibling of parents, Siblings Child
- h. Child for whom employee stands in place of parents.
- i. Person who stood in place of a parent when the employee was a minor.
- j. Any individual related by blood or whose is equivalent of a family relationship.
- k. One individual who the employee identifies at the time of hire and thereafter at the time of health insurance open enrollment each year.

F. Request for Leave

Employees shall request ESST from their supervisor prior to the start of the work day when leave is not foreseeable, or as soon thereafter as possible in an emergency situation. Requests shall be made by direct contact with the supervisor. When leave is foreseeable the employee shall request leave as far in advance as possible, preferably seven (7) calendar days, and shall schedule appointments so as to have the least impact on the business of the employer.

G. Verification

The employer may request verification of illness, injury, medical care or preventative treatment of the employee or a family member after three days, consistent with the requirements of Minn. Stat. § 181. 9447 Subd. 3.

Upon exhaustion of the accrued ESST time, the employer may require medical verification for sick leave consistent with City policy and practice for the use of sick leave.

The employer may designate ESST time used for an FMLA qualifying event as Family and Medical Leave and may request a certification of a health care provider.

For the use of ESST for domestic abuse, sexual assault, stalking, or other qualifying reasons, the employer may request verification consistent with the requirements of Minn. Stat. § 181.447 Subd. 3.



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Accept with Regret the Retirement of Public Utilities Director Todd Wicklund

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Kris Schubert, Human Resources
Director, Patrick Wussow, Interim City
Administrator

DEPARTMENT: HR

PRESENTER: Patrick Wussow, Interim City
Administrator, Kris Schubert, Human Resources
Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: On December 26, 2023, Public Utilities Director Todd Wicklund submitted his retirement letter. Mr. Wicklund's retirement will be effective May 3, 2024. Staff recommends accepting Mr. Wicklund's retirement with regret and authorize his severance pay per city policy.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Interim City Administrator Wussow met with Staff to discuss the transition and the hiring process to backfill Mr. Wicklund's position. After Mr. Wicklund's retirement, it is recommended that the Public Utilities Director position be filled with an Assistant City Administrator position that will serve as the Department Head for the Public Utilities Department and oversee the Public Utilities Municipal Division Managers. Attached is a redlined Public Utilities Director job description noting the applicable changes along with the updated Assistant City Administrator job description for Council consideration. Todd Wicklund is not in favor of changing the position title or job description as proposed. In addition, please note that Section 6.01 of the Employee Policy Manual requires that "When hiring for BPU Department Heads, the City Council will establish a Work Group to oversee the hiring process and up to two representatives from the BPU Commission Personnel Committee will be included in said Work Group."

Staff also has concerns relative to Flaherty & Hood's recommended wage for the position. Mr. Wicklund's 2023 wage is \$79.85 per hour (Step 7). Flaherty and Hood's 2023 recommended hiring range is \$51.51 - \$57.18 per hour.

Finally, for your information we have attached a portion of the March 2023 Public Utilities Commission packet where the Public Utility commission reviewed the current job description and the Flaherty & Hood process.

RECOMMENDED ACTION/MOTION: 1. Accept with regret the retirement of Public Utilities Director Todd Wicklund effective May 3, 2024, and authorize his severance payout per the Employee Policy Manual;

2. Determine the appropriate job title/position when backfilling Mr. Wicklund's position -- Options could be either the attached Assistant City Administrator position (a redlined and final version are attached) or the current Public Utilities Director job description that is also attached.
3. Approve the draft hiring process timeline as presented;
4. Consider a possible wage adjustment; and
5. Create the Assistant City Administrator Work Group to oversee the hiring process and to designate one or two Council members to serve on said Work Group.

FINANCIAL IMPACT: The Public Utilities Director position was included in the 2024 Public Utilities Department budget.



BRAINERD PUBLIC UTILITIES

8027 Highland Scenic Rd • P.O. Box 373 • Brainerd, Minnesota 56401

Business Office: 218.829.8726 ■ Repair Service: 218.829.2193

www.bpu.org

December 26, 2023

Interim City Administrator Wussow:

This is my official notification that I will be retiring from working at Brainerd Public Utilities effective May 3, 2024.

Todd Wicklund

RECEIVED

DEC 26 2023

**CITY OF BRAINERD
ADMINISTRATION**

ASSISTANT CITY ADMINISTRATOR/PUBLIC UTILITIES PROPOSED HIRING TIMELINE

Task	Date	Action
Council Approval	1/2/2024	Accept with regret Todd's up coming retirement, authorize filling position as either new title, revised title, or existing title and authorize advertising.
Advertise Job Opening	1/8/2024 - 2/9/2024	Post to Neogov, LMC, JobsHQ, MMUA
Review Applications	2/12/2024 - 2/16/2024	Review applicants with work group.
Conduct Interviews	2/26/2024 - 3/1/2024	Schedule interviews with chosen candidates.
Conditional Job Offer	3/4/2024	Schedule drug/physical. Finalize start date.
Tentative Start Date	4/15/2024	



Public Utilities Director

Department: Brainerd Public Utilities (BPU)

FLSA Status: Exempt

General Definition of Work

Provides leadership and direction relating to the Brainerd Public Utilities (BPU) Department municipal utilities systems including electric distribution and hydro generation, water treatment and distribution, and wastewater treatment facilities. Requires a high degree of communication skills to establish and maintain a positive and productive work environment. Work is performed under the supervision of the City Administrator with oversight and guidance from the Brainerd Public Utilities Commission. Exercises general and administrative supervision over all BPU employees either directly or through supervisory staff.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential Functions

- Supervises all BPU Department staff directly or indirectly through department supervisors including training, inspecting and assigning work, developing staff schedules, coaching, and counseling; conducts performance evaluations; disciplines when needed in accordance with City policies; oversees and/or participates in the selection of employees; recommends hiring and terminating personnel to the City Administrator with final determination by the City Council.
- Plans, organizes and administers the BPU Department to meet the goals and objectives established by the BPU Commission; confers with supervisors regarding work priorities, operating policies and problems, and field operation issues.
- Oversees the Department's operation including personnel, equipment, programs, methods and facilities to ensure BPU customers promptly receive reliable and efficient service.
- Performs administrative activities including capital budget preparation and report review with a basic understanding of utility accounting.
- Evaluates potential projects, programs, and services to determine feasibility and impact on utility operations and makes recommendations to Commission; Oversees cost-of-service and rate design studies for BPU.
- Prepares and analyzes quotes and bids for products and services; recommends selection of firms or individuals to provide products and services; executes or recommends execution of contracts to Commission for approval.
- Develops and issues administrative rules, policies and procedures necessary to ensure proper functioning of the BPU Department.
- Negotiates long-term Purchase Power Agreements with power provider and service territory boundary agreements subject to Commission approval.
- Responds to concerns, issues, complaints, and questions from the public and employees; mediates disputes and resolves issues as appropriate.
- Provides information to State agencies and the public regarding utility operations; Has coordination responsibilities with supervisors, City staff, consultants, neighboring power and utility agencies, Township officials, County Engineer, Minnesota Department of Transportation Engineers, Minnesota Department of Health (MDH), Minnesota Public Utilities Commission (MPUC), and Minnesota Pollution Control Agency (MPCA) staff; Works with Federal Energy Regulatory Commission (FERC) on hydro dam license requirements.
- Maintains active membership in local, state, and national associations in order to remain current on issues and trends of the industry and improve effectiveness of the utility's management.
- Assists with bargaining unit agreement negotiations as needed.
- Attends and participates in all Commission meetings and other official meetings as needed.
- Performs other duties as assigned or when necessary.

Public Utilities Director

Page 2

Knowledge, Skills and Abilities

- Strong interpersonal, oral, and written communications skills.
- Ability to effectively formulate and execute Commission policies and programs to ensure successful and efficient operations that support strategic initiatives.
- Supervise staff and delegate work; Is a team builder with the ability to coach, mentor, and develop all direct reports.
- Strong knowledge of codes and regulations including Minnesota state rules and statutes, MPCA, MDH, MPUC, and FERC.
- Sound understanding of information technology and experience with appropriately investing in capital equipment.
- Proficient in the use of PC's and relevant business software.
- Strong leadership skills including problem solving and decision making.
- Fundamentals of electricity and electric substation operation.
- Maintenance and repair knowledge of hydraulic, mechanical and electrical systems.
- Methods, materials and equipment used in electrical underground and overhead construction, hydroelectric plant generation, water treatment and distribution, and wastewater treatment.
- Principles and practices of civil engineering; Basic understanding of GIS/AutoCad drafting software.
- Ability to read equipment manuals, construction plans and specifications, policy manuals, letters and regulations.

Education, Experience and Special Requirements

- Bachelor's degree in public administration, business, engineering or an equivalent field.
- Five (5) years of senior level management municipal and/or utility related experience of which two (3) years of experience must be as a department manager or supervisor.
- An equivalent combination of education and experience may be considered as determined by the City Administrator.
- Valid MN driver's license.
- Utility supervisory experience is highly desirable.

Physical Requirements

This work requires the regular exertion of up to 10 pounds and force and the occasional exertion of up to 25 pounds of force; work regularly requires speaking or hearing and using hands to finger, handle or feel, frequently requires sitting and occasionally requires standing, walking, climbing or balancing, reaching with hands and arms, lifting and repetitive motions; work requires close vision, distance vision, ability to adjust focus, depth perception, color perception and peripheral vision; vocal communication is required for expressing or exchanging ideas by means of the spoken word and conveying detailed or important instructions to others accurately, loudly or quickly; hearing is required to perceive information at normal spoken word levels and to receive detailed information through oral communications and/or to make fine distinctions in sound; work requires preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, using of measuring devices, operating office equipment, operating motor vehicles or engineering equipment and observing general surroundings and activities; work occasionally requires working near moving mechanical parts, exposure to fumes or airborne particles, outdoor weather conditions, and vibration.

For the most part, work will be done in a typical office environment with ambient room temperatures, lighting and traditional office equipment. The noise level is usually moderate. The duties of this position may require occasional exposure to operations areas where personal protective equipment such as hard hats, safety glasses or hearing protection is required.

This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Last Revised: March 10, 2023



Public Utilities DirectorAssistant City Administrator/Public Utility

Department: Administration/Brainerd-Public Utilities-(BPU)
FLSA Status: Exempt

General Definition of Work

Provides leadership and direction relating to the Brainerd-Public Utilities (BPU)-Department municipal utilities systems including electric distribution and hydro generation, water treatment and distribution, and wastewater treatment facilities. Requires a high degree of communication skills to establish and maintain a positive and productive work environment. Work is performed under the supervision of the City Administrator with oversight and guidance from the Brainerd Public Utilities Commission. Exercises general and administrative supervision over all BPU-Public Utilities Department employees either directly or through supervisory staff.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential Functions

- Supervises all BPU-Public Utilities Department staff directly or indirectly through department division managers supervisors including training, inspecting and assigning work, developing staff schedules, coaching, and counseling; conducts performance evaluations; disciplines when needed in accordance with City policies; oversees and/or participates in the selection of employees; recommends hiring and terminating personnel to the City Administrator with final determination by the City Council.
- Plans, organizes and administers directs, and evaluates the operation of the Public Utilities Department as directed by the City Administrator and City Council and to meet the goals and objectives established by the BPU -inCommission in all areas of responsibility including the business office, electric distribution, water production and distribution, wastewater treatment, and hydro-electric generation. the BPU Department as directed by the City Administrator and City Council and to meet the goals and objectives established by the BPU Commission.
- ; eConfers with supervisors division managers regarding work priorities, operating policies and problems, and field operation issues.
- Oversees the Department's operation including personnel, equipment, programs, methods and facilities to ensure BPU customers promptly receive reliable and efficient service.
- Under the direction and/or authority of the City Administrator and City Council, oversees all Public Utilities Department staff, personnel policies and actions, -oversees and/or participates in the selection of employees; evaluates employees and recommends salary adjustments, determines staffing and structure needs; Oversees Department training program to ensure proper training and certification of departmental personnel.
- Performs administrative activities including capital budget preparation and report review with a basic understanding of utility accounting.
- Develops an annual budget and capital budget proposal; controls budgeted expenses for all divisions; Prepares, coordinates, and implements the 30-year Public Utility Department facility improvement plan including capital facility project planning with applicable division managers.
- Evaluates potential projects, programs, and services to determine feasibility and impact on utility operations and makes recommendations to Commission; Oversees cost-of-service and rate design studies for BPU.
- Prepares and analyzes quotes and bids for products and services; recommends selection of firms or individuals to provide products and services; executes or recommends execution of contracts to Commission for approval.

- Assists the City Administrator to develop and issues administrative rules, policies and procedures necessary to ensure proper functioning of the BPU Public Utilities Department.
- Coordinates ~~long-term~~ Purchase Power Agreements with power provider and service territory boundary agreements subject to Commission approval.
- Responds to concerns, issues, complaints, and questions from the public and employees; mediates disputes and resolves issues as appropriate.
- Provides information to State agencies and the public regarding utility operations as directed by City Administrator which includes working with ; Has coordination responsibilities with the City Administrator, supervisors, municipal utility managers, City staff, consultants, neighboring power and utility agencies, Township officials, County Engineer, Minnesota Department of Transportation Engineers, Minnesota Department of Health (MDH), Minnesota Public Utilities Commission (MPUC), and Minnesota Pollution Control Agency (MPCA) staff; Works with Federal Energy Regulatory Commission (FERC) on hydro dam license requirements.
- Maintains active membership in local, state, and national associations in order to remain current on issues and trends of the industry and improve effectiveness of the utility's management.
- ~~Assists with bargaining unit agreement negotiations as needed.~~
- Attends and participates in all Commission and Council meetings ~~as and other official meetings as needed and/or directed.~~
- Performs other duties as assigned or when necessary.

Public Utilities Director Assistant City Administrator/Public Utility

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Knowledge, Skills and Abilities

- Strong interpersonal, oral, and written communications skills.
- Ability to effectively formulate and execute Commission policies and programs to ensure successful and efficient operations that support strategic initiatives.
- Supervise staff and delegate work; Is a team builder with the ability to coach, mentor, and develop all direct reports.
- Strong knowledge of codes and regulations including Minnesota state rules and statutes, MPCA, MDH, MPUC, and FERC.
- Sound understanding of information technology and experience with appropriately investing in capital equipment.
- Proficient in the use of PC's and relevant business software.
- Strong leadership skills including problem solving and decision making.
- ~~Fundamentals of electricity and electric substation operation.~~
- ~~Maintenance and repair knowledge of hydraulic, mechanical and electrical systems.~~
- ~~Methods, materials and equipment used in electrical underground and overhead construction, hydroelectric plant generation, water treatment and distribution, and wastewater treatment.~~
- Basic understanding of methods, materials and equipment used in electrical underground and overhead construction, hydroelectric plant generation, water treatment and distribution, and wastewater treatment including maintenance and repair of hydraulic, mechanical and electrical systems as well as fundamentals of electricity and electric substation operation.
- Basic understanding of the Pprinciples and practices of civil engineering; and ; Basic understanding of GIS/AutoCad drafting software.
- Ability to read equipment manuals, construction plans and specifications, policy manuals, letters and regulations.

Education, Experience and Special Requirements

- Bachelor's degree in public administration, business, engineering or an equivalent field.
- ~~Five (5) years of senior level management municipal and/or utility related experience of which two (3) years of experience must be as a department manager or supervisor.~~
- Five (5) years of management and supervisory experience in a governmental agency or municipal utility.
- An equivalent combination of education and experience may be considered as determined by the City Administrator.
- Valid MN driver's license.
- Utility supervisory experience is highly desirable.

Physical Requirements

This work requires the regular exertion of up to 10 pounds and force and the occasional exertion of up to 25 pounds of force; work regularly requires speaking or hearing and using hands to finger, handle or feel, frequently requires sitting and occasionally requires standing, walking, climbing or balancing, reaching with hands and arms, lifting and repetitive motions; work requires close vision, distance vision, ability to adjust focus, depth perception, color perception and peripheral vision; vocal communication is required for expressing or exchanging ideas by means of the spoken word and conveying detailed or important instructions to others accurately, loudly or quickly; hearing is required to perceive information at normal spoken word levels and to receive detailed information through oral communications and/or to make fine distinctions in sound; work requires preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, using of measuring devices, operating office equipment, operating motor vehicles or engineering equipment and observing general surroundings and activities; work occasionally requires working near moving mechanical parts, exposure to fumes or airborne particles, outdoor weather conditions, and vibration.

For the most part, work will be done in a typical office environment with ambient room temperatures, lighting and traditional office equipment. The noise level is usually moderate. The duties of this position may require occasional exposure to operations areas where personal protective equipment such as hard hats, safety glasses or hearing protection is required.

This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Last Revised: ~~March 10~~December 28, 2023



Assistant City Administrator/Public Utility

Department: Administration/Public Utilities

FLSA Status: Exempt

General Definition of Work

Provides leadership and direction relating to the Public Utilities Department municipal utilities systems including electric distribution and hydro generation, water treatment and distribution, and wastewater treatment facilities. Requires a high degree of communication skills to establish and maintain a positive and productive work environment. Work is performed under the supervision of the City Administrator with oversight and guidance from the Brainerd Public Utilities Commission. Exercises general and administrative supervision over all Public Utilities Department employees either directly or through supervisory staff.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential Functions

- Supervises all Public Utilities Department staff directly or indirectly through division managers including training, inspecting and assigning work, developing staff schedules, coaching, and counseling; conducts performance evaluations; disciplines when needed in accordance with City policies; oversees and/or participates in the selection of employees; recommends hiring and terminating personnel to the City Administrator with final determination by the City Council.
- Plans, directs, and evaluates the operation of the Public Utilities Department as directed by the City Administrator and City Council and to meet the goals and objectives established by the BPU Commission in all areas of responsibility including the business office, electric distribution, water production and distribution, wastewater treatment, and hydroelectric generation.
- Confers with division managers regarding work priorities, operating policies and problems, and field operation issues.
- Under the direction and/or authority of the City Administrator and City Council, oversees all Public Utilities Department staff, personnel policies and actions, recommends salary adjustments, determines staffing and structure needs; Oversees Department training program to ensure proper training and certification of departmental personnel.
- Develops an annual budget and capital budget proposal; controls budgeted expenses for all divisions; Prepares, coordinates, and implements the 30-year Public Utility Department facility improvement plan including capital facility project planning with applicable division managers.
- Evaluates potential projects, programs, and services to determine feasibility and impact on utility operations and makes recommendations to Commission; Oversees cost-of-service and rate design studies for BPU.
- Prepares and analyzes quotes and bids for products and services; recommends selection of firms or individuals to provide products and services; executes or recommends execution of contracts to Commission for approval.
- Assists the City Administrator to develop administrative rules, policies and procedures necessary to ensure proper functioning of the Public Utilities Department.
- Coordinates long-term Purchase Power Agreements with power provider and service territory boundary agreements subject to Commission approval.
- Responds to concerns, issues, complaints, and questions from the public and employees; mediates disputes and resolves issues as appropriate.
- Maintains active membership in local, state, and national associations in order to remain current on issues and trends of the industry and improve effectiveness of the utility's management.

Assistant City Administrator/Public Utility

Page 2

- Provides information to State agencies and the public regarding utility operations as directed by City Administrator which includes working with municipal utility managers, City staff, consultants, neighboring power and utility agencies, Township officials, County Engineer, Minnesota Department of Transportation Engineers, Minnesota Department of Health (MDH), Minnesota Public Utilities Commission (MPUC), and Minnesota Pollution Control Agency (MPCA) staff; Works with Federal Energy Regulatory Commission (FERC) on hydro dam license requirements.
- Attends and participates in all Commission and Council meetings as needed and/or directed.
- Performs other duties as assigned or when necessary.

Knowledge, Skills and Abilities

- Strong interpersonal, oral, and written communications skills.
- Ability to effectively formulate and execute Commission policies and programs to ensure successful and efficient operations that support strategic initiatives.
- Supervise staff and delegate work; Is a team builder with the ability to coach, mentor, and develop all direct reports.
- Strong knowledge of codes and regulations including Minnesota state rules and statutes, MPCA, MDH, MPUC, and FERC.
- Sound understanding of information technology and experience with appropriately investing in capital equipment.
- Proficient in the use of PC's and relevant business software.
- Strong leadership skills including problem solving and decision making.
- Basic understanding of methods, materials and equipment used in electrical underground and overhead construction, hydroelectric plant generation, water treatment and distribution, and wastewater treatment including maintenance and repair of hydraulic, mechanical and electrical systems as well as fundamentals of electricity and electric substation operation.
- Basic understanding of the principles and practices of civil engineering; and GIS/AutoCad drafting software.
- Ability to read equipment manuals, construction plans and specifications, policy manuals, letters and regulations.

Education, Experience and Special Requirements

- Bachelor's degree in public administration, business, engineering or an equivalent field.
- Five (5) years of management and supervisory experience in a governmental agency or municipal utility.
- An equivalent combination of education and experience may be considered as determined by the City Administrator.
- Valid MN driver's license.
- Utility supervisory experience is highly desirable.

Physical Requirements

This work requires the regular exertion of up to 10 pounds and force and the occasional exertion of up to 25 pounds of force; work regularly requires speaking or hearing and using hands to finger, handle or feel, frequently requires sitting and occasionally requires standing, walking, climbing or balancing, reaching with hands and arms, lifting and repetitive motions; work requires close vision, distance vision, ability to adjust focus, depth perception, color perception and peripheral vision; vocal communication is required for expressing or exchanging ideas by means of the spoken word and conveying detailed or important instructions to others accurately, loudly or quickly; hearing is required to perceive information at normal spoken word levels and to receive detailed information through oral communications and/or to make fine distinctions in sound; work requires preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, using of measuring devices, operating office equipment, operating motor vehicles or engineering equipment and observing general surroundings and activities; work occasionally requires working near moving mechanical parts, exposure to fumes or airborne particles, outdoor weather conditions, and vibration.

For the most part, work will be done in a typical office environment with ambient room temperatures, lighting and traditional office equipment. The noise level is usually moderate. The duties of this position may require occasional exposure to operations areas where personal protective equipment such as hard hats, safety glasses or hearing protection is required.

This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Last Revised: December 28, 2023

March 10, 2023

PUBLIC UTILITIES WORK GROUP REPORT

Present: Council Member Kara Terry, BPU Commissioners Dolly Matten and Mark O'Day, City Administrator Jennifer Bergman, HR Director Kris Schubert and HR Assistant Brittney Boser.

DISCUSSIONS/ACTIONS:

1. **Organizational Structure and Consider Flaherty & Hood's Recommendations** - The organizational structure of the Brainerd Public Utilities Department was discussed. After reviewing the recommendation from Flaherty & Hood, the Work Group believes that Brainerd Public Utilities Department should be under the direction of one Department Head. This position should be titled "Public Utilities Director". The Public Utilities Director will oversee the entire department including all division supervisors and employees.
2. **Public Utilities Director Job Description** – A draft Public Utilities Director job description was reviewed. Attached is the final version that the Work Group recommends for BPU Commission and Council consideration. Please note the Job Description will still be subject to review and may change in the near future as Flaherty and Hood will be recommending we utilize a new job description format template as part of its Classification and Compensation Study recommendations.
3. **Recommended Job Posting Process** – The Work Group recommends utilizing an internal-only process. Per our Employee Policy Manual, all positions must be posted for at least three working days; therefore, the recommendation was to post the Public Utilities Director position starting Wednesday, April 5 and through 4:30 pm on Monday, April 10th.

4. Proposed Public Utilities Director Promotional Process Schedule:

- a. **BPU Commission - March 28th meeting:** Review and recommend approval to the City Council of the attached Public Utilities Director job description and proposed internal-only job posting process as recommended by the Work Group.
- b. **City Council – April 3rd meeting:** Consider the Work Group and/or BPU Commission’s recommendation(s) as noted in 4a.
- c. **Internal Job Posting Timeframe:** April 5 – April 10.
- d. **Work Group Conduct Interviews – Proposed dates are April 14 or 17.**
- e. **BPU Commission – April 25th meeting** – Receive the Work Group’s promotional and next steps recommendations. Commission to provide recommendations to the City Council.
- f. **City Council – May 1st meeting** – Consider the Work Group and BPU Commission’s recommendations from 4e.

/ks

C: Public Utilities Director Job Description



Public Utilities Director

Department: Brainerd Public Utilities (BPU)

FLSA Status: Exempt

General Definition of Work

Provides leadership and direction relating to the Brainerd Public Utilities (BPU) Department municipal utilities systems including electric distribution and hydro generation, water treatment and distribution, and wastewater treatment facilities. Requires a high degree of communication skills to establish and maintain a positive and productive work environment. Work is performed under the supervision of the City Administrator with oversight and guidance from the Brainerd Public Utilities Commission. Exercises general and administrative supervision over all BPU employees either directly or through supervisory staff.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential Functions

- Supervises all BPU Department staff directly or indirectly through department supervisors including training, inspecting and assigning work, developing staff schedules, coaching, and counseling; conducts performance evaluations; disciplines when needed in accordance with City policies; oversees and/or participates in the selection of employees; recommends hiring and terminating personnel to the City Administrator with final determination by the City Council.
- Plans, organizes and administers the BPU Department to meet the goals and objectives established by the BPU Commission; confers with supervisors regarding work priorities, operating policies and problems, and field operation issues.
- Oversees the Department's operation including personnel, equipment, programs, methods and facilities to ensure BPU customers promptly receive reliable and efficient service.
- Performs administrative activities including capital budget preparation and report review with a basic understanding of utility accounting.
- Evaluates potential projects, programs, and services to determine feasibility and impact on utility operations and makes recommendations to Commission; Oversees cost-of-service and rate design studies for BPU.
- Prepares and analyzes quotes and bids for products and services; recommends selection of firms or individuals to provide products and services; executes or recommends execution of contracts to Commission for approval.
- Develops and issues administrative rules, policies and procedures necessary to ensure proper functioning of the BPU Department.
- Negotiates long-term Purchase Power Agreements with power provider and service territory boundary agreements subject to Commission approval.
- Responds to concerns, issues, complaints, and questions from the public and employees; mediates disputes and resolves issues as appropriate.
- Provides information to State agencies and the public regarding utility operations; Has coordination responsibilities with supervisors, City staff, consultants, neighboring power and utility agencies, Township officials, County Engineer, Minnesota Department of Transportation Engineers, Minnesota Department of Health (MDH), Minnesota Public Utilities Commission (MPUC), and Minnesota Pollution Control Agency (MPCA) staff; Works with Federal Energy Regulatory Commission (FERC) on hydro dam license requirements.
- Maintains active membership in local, state, and national associations in order to remain current on issues and trends of the industry and improve effectiveness of the utility's management.
- Assists with bargaining unit agreement negotiations as needed.
- Attends and participates in all Commission meetings and other official meetings as needed.
- Performs other duties as assigned or when necessary.

Public Utilities Director

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Knowledge, Skills and Abilities

- Strong interpersonal, oral, and written communications skills.
- Ability to effectively formulate and execute Commission policies and programs to ensure successful and efficient operations that support strategic initiatives.
- Supervise staff and delegate work; Is a team builder with the ability to coach, mentor, and develop all direct reports.
- Strong knowledge of codes and regulations including Minnesota state rules and statutes, MPCA, MDH, MPUC, and FERC.
- Sound understanding of information technology and experience with appropriately investing in capital equipment.
- Proficient in the use of PC's and relevant business software.
- Strong leadership skills including problem solving and decision making.
- Fundamentals of electricity and electric substation operation.
- Maintenance and repair knowledge of hydraulic, mechanical and electrical systems.
- Methods, materials and equipment used in electrical underground and overhead construction, hydroelectric plant generation, water treatment and distribution, and wastewater treatment.
- Principles and practices of civil engineering; Basic understanding of GIS/AutoCad drafting software.
- Ability to read equipment manuals, construction plans and specifications, policy manuals, letters and regulations.

Education, Experience and Special Requirements

- Bachelor's degree in public administration, business, engineering or an equivalent field.
- Five (5) years of senior level management municipal and/or utility related experience of which two (3) years of experience must be as a department manager or supervisor.
- An equivalent combination of education and experience may be considered as determined by the City Administrator.
- Valid MN driver's license.
- Utility supervisory experience is highly desirable.

Physical Requirements

This work requires the regular exertion of up to 10 pounds and force and the occasional exertion of up to 25 pounds of force; work regularly requires speaking or hearing and using hands to finger, handle or feel, frequently requires sitting and occasionally requires standing, walking, climbing or balancing, reaching with hands and arms, lifting and repetitive motions; work requires close vision, distance vision, ability to adjust focus, depth perception, color perception and peripheral vision; vocal communication is required for expressing or exchanging ideas by means of the spoken word and conveying detailed or important instructions to others accurately, loudly or quickly; hearing is required to perceive information at normal spoken word levels and to receive detailed information through oral communications and/or to make fine distinctions in sound; work requires preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, using of measuring devices, operating office equipment, operating motor vehicles or engineering equipment and observing general surroundings and activities; work occasionally requires working near moving mechanical parts, exposure to fumes or airborne particles, outdoor weather conditions, and vibration.

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This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Last Revised: March 10, 2023

February 27, 2023

BPU Commission Commissioners

VIA EMAIL

**Re: Interim Job Classification and Compensation Study Recommendations on
BPU Top-Level Organization**

Dear BPU Commissioners,

We are currently conducting a job classification and compensation study for the City of Brainerd (City). The City and Brainerd Public Utilities (BPU) Commission requested that we provide an interim recommendation on the reorganization of BPU's top-level employee(s) due to the upcoming retirement of the BPU Secretary/Finance Director. This correspondence constitutes our interim recommendations.

1. Background

Currently, the top job classifications for the BPU Department are as follows:

- Secretary/Finance Director
 - Responsible for guiding the financial and administrative functions for BPU.
 - Works under the administrative oversight of the Brainerd Public Utilities Commission (Commission).
 - Along with Superintendent, exercises general and administrative supervision over all BPU employees either directly or through supervisory staff.
- Superintendent Of Utilities
 - Provides leadership and direction in matters relating to the construction, operation, maintenance and repair of the municipal utilities systems including electric distribution and hydro generation, water treatment and distribution, and wastewater treatment facilities.
 - Works under the administrative oversight of the Brainerd Public Utilities Commission (Commission).
 - Along with BPU Secretary/Finance Director, exercises general and administrative supervision over all BPU employees either directly or through supervisory staff.

Organizational and structural changes were made to BPU by and through the amendment to the City Charter that became effective in January 2022.

Flaherty and Hood, P.A. reviewed documentation, analysis, and feedback from City administration and considered industry practices for municipal utility departments and City-wide department structures and job classifications (i.e., titles). Flaherty and Hood, P.A. did not consider nor is making any recommendations related to individual employees.

2. Recommendations

Based on the above-background, Flaherty and Hood, P.A. recommends to reorganize BPU's top-level job classifications, in summary, as follows:

- A. Replace the Superintendent of Utilities job classification with Public Utilities Director job classification:
 - i. This job classification would be directly supervised by the City Administrator with oversight and guidance from the BPU Commission
 - ii. This job classification would directly supervise the top job classifications in each Public Utilities division (Finance, Electric Operations, Water Operations, Wastewater Operations)
- B. Modify the Secretary/Finance Director job classification to be Finance Supervisor:
 - i. This job classification would be supervised by the Public Utilities Director
 - ii. This job classification would directly supervise finance and administrative job classifications
 - iii. This job classification would no longer supervise operational job classifications
- C. Further changes to BPU's organizational structure may arise from the results of Job Classification and Compensation Study.

Please contact us at (651) 225-8840 or via email at rtparker@flaherty-hood.com if you have any further questions related to this study.

We look forward to continuing to conduct the complete study for the City!

Very truly yours,

/s/
Brandon M. Fitzsimmons
Shareholder Attorney

/s/
Rachel T. Parker
Human Resource Analyst



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Authorize Signatures on League of Minnesota Cities Insurance Trust (LMCIT) Liability Coverage Waiver Form

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER: Connie Hillman, Finance Director

ESTIMATED TIME (MIN): 3 Minutes

SUMMARY OF ISSUE: Annually, the City needs to decide whether or not to waive the statutory tort limits. The waiver form is attached for your review. Historically, the City has elected **not** to waive the statutory tort limit. By doing so, the City is limited by the statute to no more than \$500,000 per claimant and \$1.5 million per occurrence for tort claims.

If the City chose to waive (the other option), a claimant could recover up to the standard limit of \$2 million rather than the statutory limit of \$500,000 per claimant.

It is also the recommendation of our local insurance agents to **not** waive the statutory tort limit as well.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: Liability coverage is more expensive if the city waives the limits; the cost difference is 3.5% of the liability premium for members that choose to waive it. Waiving the limits does not give the city better protection; the benefit is only to the party who is making the liability claim against the city.

RECOMMENDED ACTION/MOTION: The recommended motion would be to approve and submit the liability coverage waiver form with "does not waive" the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 option selected.

FINANCIAL IMPACT: No. The cost of not waiving the tort limit is not known, it is part of the amount the City annually budgets for general liability insurance.

LIABILITY COVERAGE WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before their effective date of coverage.
Email completed form to your city's underwriter, to pstech@lmc.org, or fax to 651.281.1298.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. *The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.* The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name: _____

Check one:

- ☐ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- ☐ The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____

Position: _____



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Request to Transfer Water Accessibility Charges (WAC) Cash Balance to BPU Department

AGENDA: P&F Committee

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: Connie Hillman, Finance Director

DEPARTMENT: Finance

PRESENTER: Connie Hillman, Finance Director

ESTIMATED TIME (MIN): 5 Minutes

SUMMARY OF ISSUE: In the attached letter, the BPU Commission is requesting the City Council to transfer the WAC funds to BPU. There is currently \$125,741.64 of cash in the WAC fund. The last transfer of WAC funds to BPU was made in April 2021.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: The WAC fee was established by ordinance and is in section 706 of the city code (attached). Section 706.01 lays out the purpose for which WAC funds can be used. Since BPU is responsible for water, staff feels that the transfer of funds from the WAC funds to BPU should be done automatically on an annual basis.

The Sanitary Accessibility Charge (SAC) fund has a cash balance of \$1.27 million. Allocation of the funds for use between the collection, done by the street and sewer department, and the treatment, done by the utility department, is yet to be determined.

RECOMMENDED ACTION/MOTION: Recommended action is to authorize the transfer of \$125,000 of current funds in the water availability charge fund (WAC) to BPU by February 1, 2024; and further to authorize Staff to annually transfer the balance of the WAC funds to BPU by January 1st each year.

FINANCIAL IMPACT:



BRAINERD PUBLIC UTILITIES

8027 Highland Scenic Rd • P.O. Box 373 • Brainerd, Minnesota 56401

Business Office: 218.829.8726 ■ **Repair Service:** 218.829.2193

www.bpu.org

To: Brainerd City Council

From: Brainerd Public Utilities Commission

Date: December 19, 2023

Re: Transfer of WAC Funds

The Commission is requesting that WAC funds currently being held by the City be transferred to the Commission by February 1, 2024, in order that these funds can be used to offset costs associated with the construction of the larger groundwater storage water tanks and related backwash tank. Phase 1 of the project consisted of the construction of two one-million-gallon ground storage tanks and demolition of the existing ground storage tanks. Phase 2 will consist of the construction of a new 500,000-gallon backwash/reclamation tank and the demolition of the existing backwash tank for an estimated cost of \$5.4 million.

The projects are anticipated to be funded by a mixture of user charges, debt issuance, state bonding proceeds, and available WAC. The Phase 2 portion of the project is anticipated to be let out for bid in January with actual work starting on Phase 2 in July or August of 2024.

Thank you for considering this request.

Sincerely,

Dolly Matten
BPU Commission Vice-President

Section 706 – Water Availability Charge (WAC)

706.01 Charge Established. For the purpose of providing funds for the City's wells, water treatment, water storage, and water distribution systems, and the plant and facilities connected therewith, and the payment of capital charges represented by bonds, certificates of indebtedness or otherwise, which may be used to finance the costs of additions or expansions to the facilities, and the payment of reasonable requirements or reserves for replacement in obsolescence thereof, there is hereby imposed upon each lot, parcel of land, building, or premises having any connection with the City's public water system a water availability charge (WAC) as hereinafter provided. Said charge shall be in addition to any other previous or future charge or assessment levied against the property.

706.02 Determination and Administration of Charge. The availability charge as hereinabove authorized shall be imposed in addition to the user charges for water service and shall be determined and administered as follows:

Subd. 1. Payment Required:

- a) Payment Required Prior to Connection: Prior to the issuance of the applicable permit and before connecting to the City's water system, a City water availability charge as hereinafter provided for shall be paid.
- b) Additional Building Permit: If, after the initial availability charge is paid, an additional building permit is issued, the use of the property changes, or new water connection is made, the availability charge shall be recalculated and any additional charges shall be paid.
- c) Change by Resolution: Any change in the City water availability charge as hereinafter set forth shall be by Council Resolution.

Subd. 2. Determination of Charge. The amount of the availability charge shall be determined by the City by first determining the number of Equivalent Residential Connections (ERC's) applicable to the particular property. This charge shall be calculated in accordance with the most current ERC Table on file in the office of the City Engineer. Once the appropriate number of ERC's are determined in this manner, the availability charge shall be calculated using the charge in the most recent resolution setting the availability charge.

Subd. 3. Determination of ERC's. The City shall determine the number of ERC's.

Subd. 4. Transfer of ERC's. Once established, the number of ERC's shall remain the same on the property. An ERC can be transferred on the property from a structure being removed to a structure being constructed.

Subd. 5. Uses Not on Table. Any use not represented in the ERC tables shall be subject to determination of the appropriate number of ERC's by the City based on estimated flows. The most recent edition of the Service Availability Charge Procedures Manual prepared by the Metropolitan Council Environmental Services division may also be utilized as a tool for calculating ERC's.

(Added Ord. 1147 – 2002)



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Final Reading- Proposed Ordinance 1563- Amending Salaries for Elected and Appointed Officials

AGENDA: Main

ACTION REQUESTED: Ordinance

SUBMITTED BY: Kris Schubert, Human Resources Director

DEPARTMENT: Administration

PRESENTER: Kris Schubert, Human Resources Director

ESTIMATED TIME (MIN): 2 minutes

SUMMARY OF ISSUE: At the December 4th, Council meeting, the Council decided to retain its current wage and benefit structure. In reviewing our information, we could not find a Council motion approving the wage for the Brainerd Public Utilities Commission members. Attached is an ordinance to officially approve the BPU Commission wage and to clean up the Council wage language as well.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

RECOMMENDED ACTION/MOTION: Motion to hold the Final Reading of Proposed Ordinance No. 1563 - An Ordinance amending the salaries for elected and appointment officials and dispense with the actual reading.

Motion to adopt ordinance 1563.

FINANCIAL IMPACT: n/a - This ordinance is not changing the current wages, just clarifying it.

**ORDINANCE
NO. 1563**

AN ORDINANCE AMENDING SECTION 200.05 & 305.17
OF THE BRAINERD CITY CODE RELATING TO
SALARIES FOR ELECTED AND APPOINTED OFFICIALS

THE COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE. That Section 200.05, Subd. 1 of the Brainerd City Code be amended as indicated, with deleted language struck out and new language underlined:

"Subd. 1. Aldermen-Elected Officials. The salary of an Alderman-Council Members is Five Hundred Fifty and no/100 Dollars (\$550.00) per month effective January 1, 2003. ~~For the period from May 1, 2010 through December 31, 2010, the salary of an Alderman is Five Hundred Twenty Two and 50/100 Dollars (\$522.50) per month."~~

"Subd. 2. Mayor. The salary of the Mayor is Six Hundred Fifty and no/100 Dollars (\$650.00) per month effective January 1, 2003. ~~For the period from May 1, 2010 through December 31, 2010, the salary of the Mayor is Five Hundred Seventeen and 50/100 Dollars (\$517.50) per month."~~

"Subd. 3. Additional Salaries. The President of the Council, the Chair of the Personnel and Finance Committee, and the Chair of the Safety and Public Works Committee, respectively, receive a salary of \$50 per month in addition to their salary as Alderman Council Members. ~~For the period from May 1, 2010 through December 31, 2010, the salary of the President of the Council, the Chair of the Personnel and Finance Committee, and the Chair of the Safety and Public Works Committee, respectively, is Forty Seven and 50/100 Dollars (\$47.50) per month."~~

SECTION TWO. That Section 305.17 of the Brainerd City Code be deleted in its entirety and replaced with the following:

305.17 Public Utilities Commission. Subdivision 1. Purpose. The Public Utilities Commission controls, operates, and manages public utilities. Specific duties and powers of the Public Utilities Commission are outlined in the Brainerd City Charter.

Subdivision 2. Membership. The Commissioners are residents of the City of Brainerd or have an ownership interest in a business or other property within the city limits. A non-voting Council liaison will serve for a period of two years.

Commissioners are compensated for serving as determined by the Commission and approved by the City Council. The salary of a Public Utilities Commission Member is \$175 per month effective January 1, 2024. The Chair of the Public Utilities Commission earns \$25 per month in addition to their salary as a Commissioner.

Subdivision 3. Meetings. The Public Utilities Commission shall meet monthly, at the call of the Chair, or at the request of any two members. Special meetings may be called, if desired by a majority of the Board Members. A secretary shall keep a full record of all proceedings of said board. The Commission may create and fill such other offices as it may determine.

SECTION THREE. That this ordinance shall take effect and be in force one week after its publication.

Adopted this ____ day of _____ 2024.

KELLY BEVANS
President of the Council

Approved this ____ day of _____ 2024.

DAVE BADEAUX
Mayor

ATTEST: _____
PATRICK WUSSOW
Interim City Administrator

Published: One Time:



City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Conditional Use Permit to Operate an Auto Repair Service at 100 Washington St.

AGENDA: Main

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: James Kramvik, Community Development Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community Development Director

ESTIMATED TIME (MIN): 5 min

SUMMARY OF ISSUE:

Conditional Use Permit (CUP) for AutoSmith Service Group LLC to operate an auto repair service at 100 Washington St. Brainerd, MN 56401. AutoSmith Service Group LLC is an auto repair service with four (4) current locations in north central Minnesota. At their facilities, the company offers automotive repair, towing, and diesel truck repair services. They are proposing to operate out of two-thirds (2/3) of the available space at the premises.

The applicant confirmed that only repaired vehicles awaiting pickup within twenty-four (24) hours will be stored outside the building. All vehicles in a state of damage or disassembly will be stored internally.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

The Planning Commission considered this request at their regularly scheduled meeting on December 20th, 2023. Commission members asked the following questions and made the following comments:

Commissioner Duval asked about dust and odor control regarding MPCA standards and regulations. Staff indicated that the business is required to meet the state standards and if there are issues with dust or odor it is typically complaint based with a follow up inspection by the MPCA. The owner of AutoSmith indicated that dust should not be an issue as most cleaning processes are water based and self-contained rather than blowing the dust out of brakes rotors or a clutch. The dust factor is well controlled.

Commissioner Gohram noticed that the building has a new paint job and asked if the building is now compliant with City Ordinances.

Staff indicated that a letter was sent to the property owner for property maintenance of the building, specifically for paint. The property owner painted the structure in August and the building is now in compliance with City Ordinances.

Commissioner Mahron stated that this is a delightful use of this property. The motion was moved and

seconded by Commissioners Marohn and Duval, duly carried, to recommend approval of the Conditional Use Permit for an auto repair service at 100 Washington St., Brainerd based on the Findings of Fact and the added condition of an inspection by the Fire Marshal.

RECOMMENDED ACTION/MOTION:

Recommend approval of the Conditional Use Permit for an auto repair service at 100 Washington St. Brainerd, subject to the findings of fact with the condition that the Fire Marshal inspects and approves the property prior to operation.

FINANCIAL IMPACT: NA

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: December 20, 2023

RE: Consider Conditional Use Permit to Operate an Auto Repair Service at 100 Washington St. Brainerd, MN 56401

REQUEST

Public Hearing. Conditional Use Permit (CUP) for AutoSmith Service Group LLC to operate an auto repair service at 100 Washington St. Brainerd, MN 56401.

AutoSmith Service Group LLC is an auto repair service with four (4) current locations in north central Minnesota. At their facilities, the company offers automotive repair, towing, and diesel truck repair services. They are proposing to operate out of two-thirds (2/3) of the available space at the premises.

CONTEXT

Parcel Numbers: 41250522

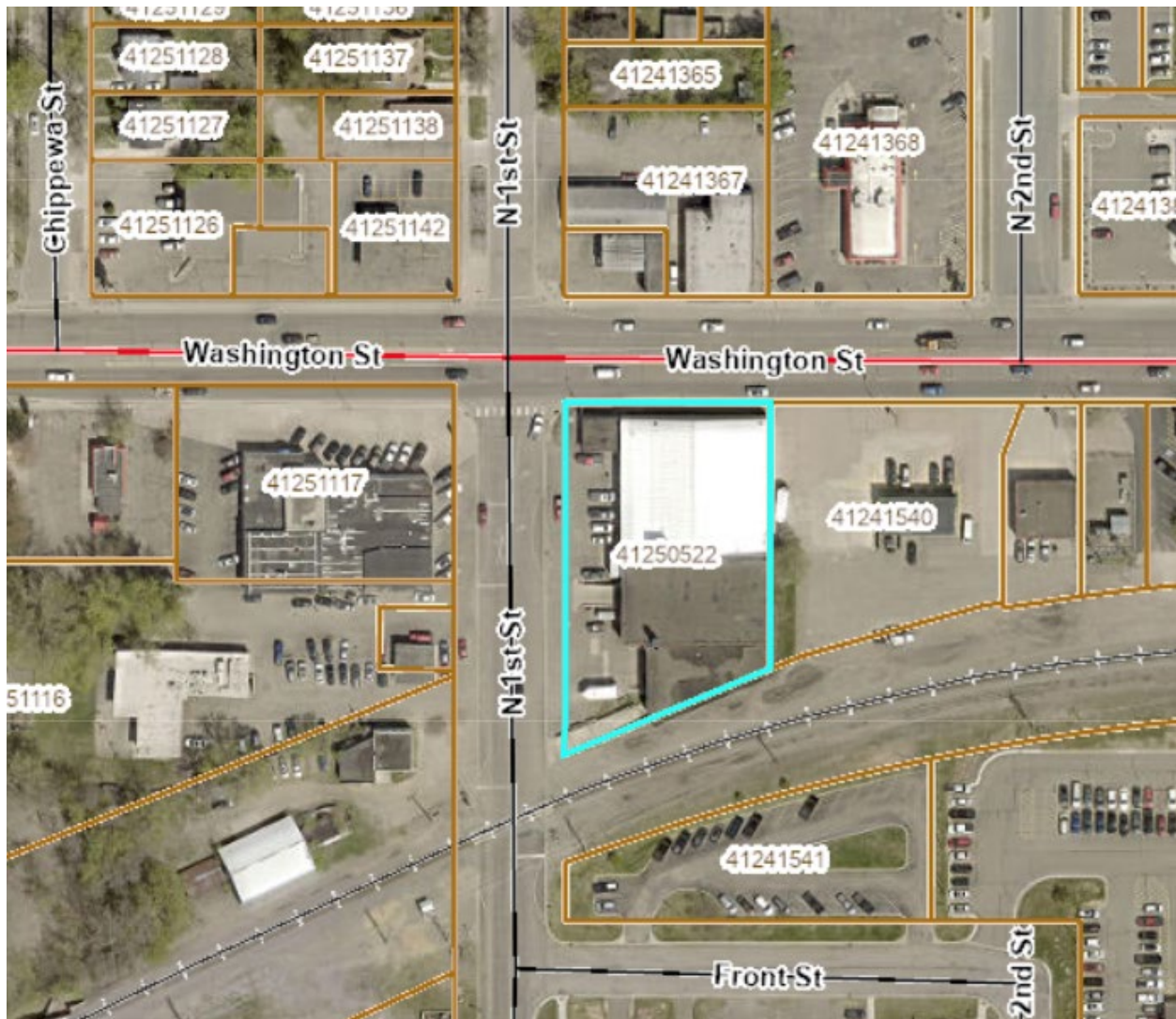
Zoning District: Commercial Corridor (CC)

Property Area: 34,756 SQFT

Adjacent Uses: North: Retail
East: Auto Glass Repair
South: Designated Off Street Parking Area
West: Auto Dealership

Adjacent Zoning: North: Commercial Corridor (CC)
East: Commercial Corridor (CC)
South: Town Center (TC)
West: Commercial Corridor (CC)

AERIAL MAP



FINDINGS OF FACT

1. 100 Washington St. Brainerd, MN 56401 is in a Commercial Corridor (CC) Zoning District and Zoning Ordinance [515-3 Allowed Uses. Appendix A: Table of Uses](#) allows for Auto Repair as a Conditional Use in the CC District.
2. According to [Section 515-3-7 Auto and Truck Repair](#), “Any Auto and Truck Repair business must comply with the following minimum standards:”
 - A. All outdoor storage of vehicles shall be screened by at least a six (6) foot fence, but not in excess of eight and one-half (8½) feet in height and shall be ninety (90) percent opaque fence.
 - i. *Currently, the premises does not have any screening that is over six (6) feet in height or ninety percent (90%) opacity. The site does include significant space*

for the indoor storage of vehicles. No plans are currently proposed for the screening of the property as the applicant has proposed all vehicles in a state of damage or disassembly will be stored internally.

- B. Any vehicle parked or stored on the property for longer than twenty-four (24) hours shall be kept in the screened yard.
 - i. There is no proposed storage of vehicles outside for over twenty-four (24) hours. The parcel as stated above is not screened; the applicant has confirmed only repaired vehicles awaiting pickup within twenty-four (24) hours will be stored outside of the building.*
 - C. The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a storm water drainage system and is subject to the approval of the City Engineer.
 - i. The entire parcel is covered in a bituminous or concrete surface which is impermeable and would satisfy the minimum required standards for dust and drainage controls.*
 - D. All painting shall be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust, or other particulate matter so that the use shall be in compliance with the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, or successor regulations.
 - i. The applicant is not proposing auto painting as a use at this facility at this time. As for all other uses that may produce dust or fumes, the building is equipped with an existing exhaust system that provides fresh air exchange adequate to serving the proposed use.*
 - E. The emission of odor by a use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota regulations APC, or successor regulations.
 - i. The applicant notes that the proposed use does not produce noxious odors and is in compliance.*
 - F. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota Uniform Fire Code.
 - i. The applicant notes that their policy is to keep the limited aerosolized flammable substances needed for their proposed use contained in a flammables cabinet. Most of their cleaners and other use related chemicals are water based and nonflammable.*
 - G. All outside storage shall be prohibited except for customer automobiles and trucks awaiting repair.
 - i. There is no proposed outdoor storage in the applicant's submittal to the City of Brainerd currently.*
3. **Criteria for Granting Conditional Use Permits.** In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants

or surrounding lands. Among other things, the City Council shall make the following findings where applicable.

- A. The proposed use conforms to the Zoning District and is a permitted Conditional Use identified on Appendix A: Table of Uses.
 - i. The applicant has proposed using the premises at 100 Washington St. as an auto repair service, which is a Conditional Use in a CC Zoning District as identified in the Appendix A: Table of Uses.*
- B. The proposed use meets the regulations and standards established in this Ordinance.
 - i. The proposed use meets all regulations and standards set forth in the Zoning Code and City Code.*
- C. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
 - i. The proposed use will not create any external dangers or injurious conditions.*
- D. The proposed use shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - i. The existing building on the premises is already properly oriented and in harmony with its neighboring adjacent properties and no changes have been proposed by the applicant.*
- E. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - i. The applicant has proposed no exterior changes to the premises thus the total visual impression with the neighborhood will remain unchanged by the proposed use.*
- F. The proposed use shall organize vehicular access and parking to minimize traffic congestion in a residential neighborhood.
 - i. The property features a large indoor space for the storage of vehicles and designated parking spots along its east façade that can accommodate employees and vehicle intake, which would not disrupt the existing traffic patterns and flow.*
- G. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the [Comprehensive Plan](#).
 - i. This Conditional Use is consistent with the following goals and policies of the 2021 Comprehensive Plan for the City of Brainerd.*
 - 1. “GOAL 3: Help local businesses grow and attract new businesses in our neighborhoods, along our main corridors, and in our downtown. Policy 2: Attract new businesses best suited for the community’s assets, increasing local employment options and building the city’s tax base.”
 - a. The approval of this permit will allow for the useful tenancy of one of the larger properties along the Washington St. main corridor of the City as well as the creation of additional jobs.*
 - 2. “GOAL 2: Through thoughtful planning, maintain the unique identity of the city and all the appropriate land uses that support it. Policy 3: Promote reinvestment in the city’s main highway corridors and downtown.”

- a. *This conditional use permit is an appropriate land use choice in which the city has the ability to promote investment by a company local to the region.*

4. **Section 515-2.B.7 Conditions.** In reviewing applications for conditional use permits, the City may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed use, to protect the value of property within the Zoning District, and to achieve the goals of the City's Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses. Such conditions may include, but are not limited to, the following:
 - A. Increasing the required lot size or yard setback dimension.
 - B. Limiting the height, size, or location of buildings.
 - C. Regulating ingress and egress to the property and the proposed structures thereon with references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or another catastrophe.
 - D. Regulating the street width.
 - E. Increasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location, or lighting of signs.
 - G. Requiring a berm, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
 - H. Requiring dedication of some open or green space.
 - I. Regulating the appearance of the facilities or site so that they are harmonious with the neighborhood and City.

As of this writing, no parties have contacted the Community Development Department for more information on the Conditional Use Permit application for the proposed auto repair service at 100 Washington St.

STAFF RECOMMENDATION

The Community Development Department recommends approval of the Conditional Use Permit for an auto repair service at 100 Washington St. Brainerd, MN 56401.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that AutoSmith Service Group LLC has submitted a request for a Conditional Use Permit to operate an auto repair service at 100 Washington St. Brainerd, MN 56401 which is owned by Ron Imgrund Properties LLC. The property included in this application is described as:

*LOT 000 BLOCK 04
TOWN OF BRAINERD & FIRST ADDITION TO BRAINERD
Parcel #: 41250522
Section 25, Township 45, Range 31*

The property is zoned as CC (Commercial Corridor) Zoning District, and Zoning Ordinance Section 513-3 [Appendix A: Table of Uses](#) allows auto repair services as a conditional use in the CC District. A copy of the application and submitted documents are on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, December 20, 2023, in the Council Chambers at Brainerd City Hall, 501 Laurel Street, to consider the Conditional Use Permit request.

Any individual needing special accommodation or would like more information about this request, please call (218) 828-2307.

Dated this 6th day of December 2023



James L. Kramvik
Community Development Director

Publication Date: December 9, 2023

**Community Development Department**

City Hall – 501 Laurel Street Brainerd, MN 56401

218-828-2307

www.ci.brainerd.mn.us

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

	RESIDENTIAL	COMMERCIAL
CONDITIONAL USE PERMIT	☐ (\$250.00)	☒ (\$400.00 + \$500.00 escrow deposit)
REZONING	☐ (\$300.00)	☐ (\$500.00)
VARIANCE	☐ (\$250.00)	☐ (\$400.00 + \$500.00 escrow deposit)
ZONING TEXT AMENDMENT	☐ (\$250.00)	☐ (\$400.00)

PROPERTY ADDRESS: 100 Washington StreetLEGAL DESCRIPTION: Lot(s): _____ Block: _____ Addition: _____
(attach description if lengthy)Property Owner Name: Ron Imgrund Properties LLCStreet Address: PO BOX 585 City: Brainerd State: MN Zip Code 56401Phone Number: 218-838-4164 Fax: _____ E-mail: _____Applicant Name: (If different than Property Owner) AutoSmith Service Group LLCStreet Address: 803 4th St City: Ironton State: MN Zip Code: 56455Phone Number: 218-838-4855 Fax: _____ E-mail: dustin@dieselsmith.comDescription of Request: Auto Repair Service In the Northern 2/3s of building

Property Owner Signature

11/8/2023

Date

Ron Imgrund

(Please print name)

Applicant Signature

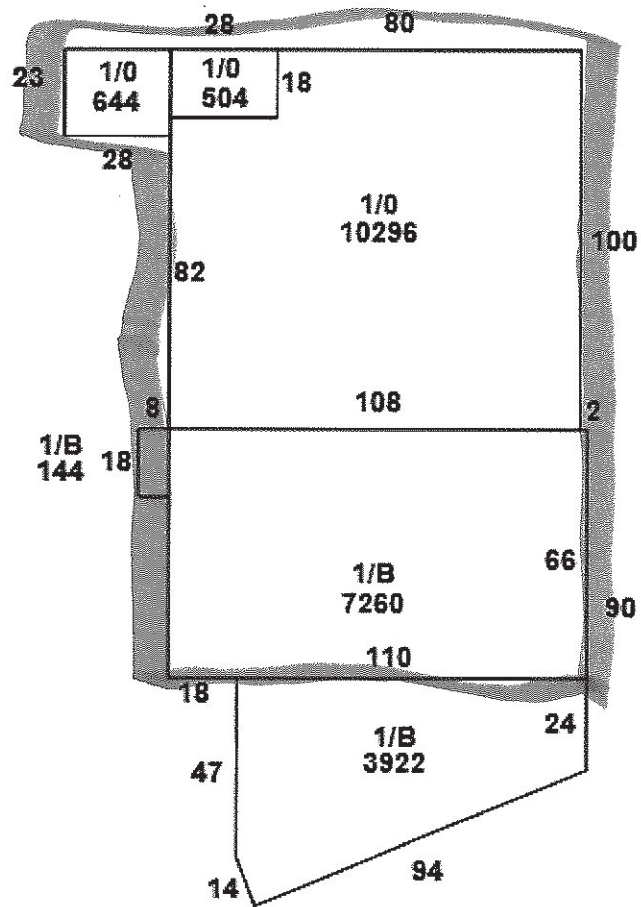
11/8/2023

Date

Dustin Smith

(Please print name)

(OVER)





City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Interim Use Permit to Operate a Short-Term Rental at 524 N 8th St.

AGENDA: Main

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: James Kramvik, Community Development Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community Development Director

ESTIMATED TIME (MIN): 5 min

SUMMARY OF ISSUE:

Ms. Nita Gross on behalf of MN Lake Properties LLC applied for a short-term rental at 524 N 8th St Brainerd. MN Lake Properties LLC proposed this short-term rental in a call to the department general line and submitted the application after speaking with staff. This property was not operating as a short-term rental without an interim use permit.

The applicant provided a floor plan of the subject property which includes two bedrooms at 121 and 110 SQFT. The applicant states an occupancy of (5), however according to the City Code, the maximum occupancy should be set at (4) based on the provided dimensions. The house rules note that all loud noises are prohibited after 10:30 PM, which must be corrected to meet City Code requirements.

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS: The Planning Commission considered this request at their regularly scheduled meeting on December 20th. The motion was moved and seconded by Commissioners Duval and Grunenwald, duly carried, to recommend approval of an Interim Use Permit to operate a short-term rental at 524 N 8th St. Brainerd with the conditions as presented in the packet. The motion was approved unanimously.

Commissioner Mahron asked if the property is a rental now? The applicant stated they do have a current rental license, but their kids are living at the property right now as a test to make sure everything works. "We are fixing it up to make it pretty, I know there is a need for short-term rentals for the hospital as they have trouble staffing and this provides a place that feels good because they have to be there awhile."

RECOMMENDED ACTION/MOTION:

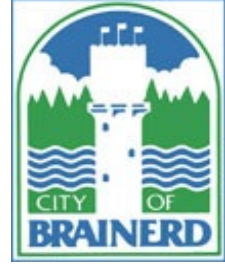
Recommend approval of the Interim Use Permit for one short-term rental unit at 524 N 8th St Brainerd, with the following conditions:

- 1) The house rules for quiet hours are adjusted to reflect the City Ordinance.
- 2) The guest capacity for the short-term rental shall be set by the Building Official.

- 3) Submittal of the local option sales tax form to the Finance Department.
- 4) The Interim Use Permit shall terminate on 12/31/2024 or upon sale or transfer of the property.

FINANCIAL IMPACT: N/A

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: December 20th, 2024

RE: Consider Interim Use Permit for a Short-Term Rental at 524 8th St N

REQUEST

Public Hearing. Interim Use Permit Ms. Nita Gross on behalf of MN Lake Properties LLC applied for a Short-Term Rental at 524 8th St N Brainerd, MN 56401.

MN Lake Properties LLC proposed this short-term rental in a call to the department general line and submitted the application after speaking with staff. This property was not operating as a short-term rental without an interim use permit.

CONTEXT

Parcel Numbers: 41240960

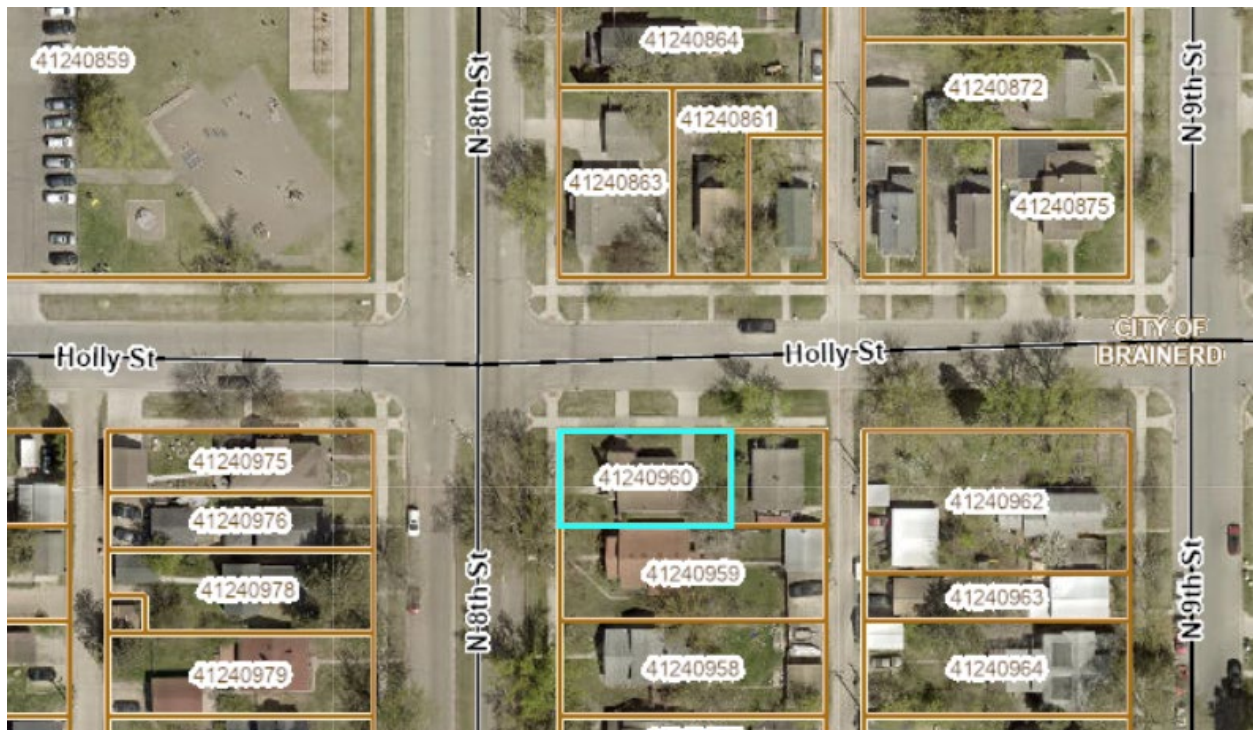
Zoning District: Traditional Neighborhood One (TN-1) District

Property Area: 4526.90 SQFT

Adjacent Uses: North: Single Family Dwelling
East: Single Family Dwelling
South: Single Family Dwelling
West: Single Family Dwelling

Adjacent Zoning: North: Traditional Neighborhood One (TN-1) District
East: Traditional Neighborhood One (TN-1) District
South: Traditional Neighborhood One (TN-1) District
West: Traditional Neighborhood One (TN-1) District

AERIAL MAP



FINDINGS OF FACT

1. 524 N 8th St Brainerd, MN 56401 is located in a Traditional Neighborhood One (TN-1) District. The TN-1 District allows short-term rentals as an Interim Use according to Zoning Code [Appendix A: Table of Uses](#).
2. Short-term rentals must comply with the following minimum standards as required by the [Section 515-3-34](#) of the Zoning Code:
 - a. The maximum rental period shall not be more than 28 consecutive nights.
 - b. The permit holder (owner) of a short-term rental must apply for and receive an interim use permit.
 - i. *This application process serves as a fulfillment of this requirement of the interim use permit process.*
 - c. The application for an interim use permit shall include:
 - i. The number of bedrooms with dimensions and all other sleeping accommodations
 1. *The applicant provided a floor plan of the subject property which includes two bedrooms at 121 and 110 SQFT.*
 - ii. The number of off-street parking spaces available to guests.
 1. *The house rules note that parking in the driveway is available but also noted the presence of on-street parking on both 8th and Holly Streets totaling 4 spaces.*

- iii. All accessory structures and outdoor recreational features available for guest use
 - 1. *There is a patio and attached garage located at the subject property and are available for use by the occupants during their stay at the property.*
- iv. A pet, garbage, and noise policy.
 - 1. *The house rules prohibit pets directly.*
 - 2. *The house rules note that trash pickup services are provided through Waste Partners with a Thursday pick-up and instructions for disposal provided at the time of occupancy.*
 - 3. *The house rules note all loud noises are prohibited after 10:30 PM.*
- v. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short-term rental unit.
 - 1. *These materials are referenced in the rules and available to occupants of the property.*
- d. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
 - i. Contact Information. The managing agent or local contact's name, address, and phone number. The agent shall be available 24 hours a day, seven days a week, whenever the property is being rented. Property contact information will always be accessible to the public on the City of Brainerd website.
 - 1. *The applicant states in the house rules these will be available to the occupants during their stay.*
 - ii. Occupancy. The maximum number of guests allowed at the property.
 - 1. *The applicant requests occupancy of five (5) guests. However, according to the bedroom dimensions depicted in the floor plan, the occupancy maximum will be four (4).*
 - iii. Vehicles. The maximum number of vehicles, recreational vehicles, and trailers allowed on the property and where they are to be parked. Parking in a yard that fronts a street as well as along an interior side of a house is required to be on an improved surface. Recreational vehicles shall not be parked in any right-of-way or utility easement. No vehicle or trailer shall be parked on a street more than forty-eight (48) continuous hours.
 - 1. *The parking instructions note that a "boat" is allowed to be parked in the paved driveway. The paved driveway has space for one vehicle or trailer. The applicant states that there are four (4) on-street parking spaces available to guests.*
 - iv. Garbage. Garbage and refuse containers shall be placed out for collection no earlier than 6:00 P.M. the day before collection and removed by the end of the day of collection. Garbage shall be placed in

fly tight containers sufficient to receive all garbage which may accumulate between times of collection.

1. The house rules state garbage collection occurs on Thursday's and that the instructions will be given at the time of occupancy.

- v. Noise. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume to disturb the peace, quiet, or repose of another person.

1. Quiet hours start at 10:30 PM, which exceeds the City Code by thirty minutes.

- vi. Pets. No person shall keep, maintain, or otherwise house more than a total of four cats or dogs within any household in the City of Brainerd. It shall be unlawful for any person to allow a dog or cat to run at large and to keep or harbor a dog that habitually barks, yelps, howls, cries, or whimpers to unreasonably disturb the peace and quiet of any person in the vicinity. The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.

1. No pets are permitted on the premises per the rules of the premises.

- e. The occupancy of a short-term rental shall be limited to no more than 3 people per bedroom or the occupancy set by the Building Official.

i. According to [Section 404.4.1 of the Property Maintenance Code](#), every bedroom shall contain not less than 70 square feet (6.5 m2) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m2) of floor area for each occupant thereof, whichever is less.

ii. Bedroom one is 121 SQFT which exceeds the 100 SQFT requirement for rooming two (2) guests.

iii. Bedroom two is 110 SQFT which exceeds the 100 SQFT requirement for rooming two (2) guests.

iv. Total occupancy of the short-term rental is four (4) guests based on the square footage calculation; the applicant states the occupancy is five (5) within the house rules.

- f. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the Building Department, whichever is stricter.

i. The bedrooms meet this criterion, as the premises has been inspected and is currently a licensed rental property.

- g. The short-term rental shall be connected to city sewer and water or an approved septic system. A valid septic system certificate of compliance is required at the time of rental license issuance and annual renewal. A short-term rental shall have a full bathroom (sink, toilet, and tub or shower).

i. The short-term rental is connected to the city sewer and water system.

- h. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.

- i. The utilization of recreational vehicles as sleeping space on the premises is prohibited.*
- i. The permit holder shall keep a report detailing use of the short-term rental by recording the full name, address, phone number and vehicle license number of the guest reserving the rental. A copy of the report shall be provided to the Zoning Administrator upon request.
- j. A short-term rental shall be a licensed rental unit by the City and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to, the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the Fire Marshal.
 - i. The subject property is a licensed rental and will be placed on the annual inspection schedule by the rental housing inspector and the Fire Marshal. The housing inspector and Fire Marshal have inspected this property and approved the inspection.*
- k. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety, and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
- l. A permit holder must post their rental license permit number on all print, poster, or web advertisements.
- m. It is the owner's responsibility to apply for state and local sales tax numbers, including hotel and motel use sales tax. It is the owner's responsibility to contact the Minnesota Department of Health about lodging license requirements.
 - i. The owner of the property has been made aware of these requirements.*

As of this writing, one party has contacted the Community Development Department regarding the Interim Use Permit in support of the project upon receiving an explanation of the submitted materials.

STAFF RECOMMENDATION

Staff recommends approval of the Interim Use Permit for one short term rental unit at 524 8th St N Brainerd, MN 56401 with the following conditions:

- 1) The house rules for quiet hours are adjusted to reflect the City Ordinance
- 2) The guest capacity for the short-term rental shall be set by the Building Official
- 3) Submittal of the local option sales tax form to the Finance Department
- 4) The Interim Use Permit shall terminate on 12/31/2024.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given Ms. Nita Gross on behalf of MN Lake Properties LLC has submitted an Interim Use Permit to operate a short-term 524 8th St N Brainerd, MN 56401. The property included in this application is described as:

*Lot 13, Block 140
Town of Brainerd & First Addition To Brainerd
P.I.N. 41240960
Section 24, Township 45, Range 31*

The property is zoned TN-1 (Traditional Neighborhood One) District. [Appendix A: Table of Uses](#) of the Zoning Code requires an Interim Use Permit for the operation of a short-term rental in a TN-1 District as regulated by Section 515-3-34 Short-Term Rentals. Information on the proposed short-term rental is on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, December 20, 2023, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the Interim Use Permit.

Any individual needing special accommodation or more information about this request, please call (218) 828-2307.

Dated this 6th day of December 2023



James L. Kramvik
Community Development Director

Publication Date: December 9, 2023



Community Development Department

City Hall – 501 Laurel Street Brainerd, MN 56401

218/828-2309/Fax 218-828-2316 www.ci.brainerd.mn.us

INTERIM USE PERMIT for SHORT-TERM RENTAL

Application Form (residential - \$250.00 / commercial - \$500.00 + \$500.00 escrow deposit)

(This form must be filled out completely before your application will be accepted)

Property Address for this Interim Use Permit: 524 N. 8th Street, Brainerd MN 56401

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow short term rental

at the property address listed above until the date of _____

Legal Description (attach, if lengthy): Lot W. 90 ft. of 13 Block 14 Addition Block 140

Property Owner: My Lake Properties LLC

Address: 10568 Pine Song Dr. SW, Nisswa MN 56468
(Street) (City) (State) (Zip)

Contact Information #: cell: Nita Gross (owner)
(Home) (218) 330-0552

(Business)

(Fax)

mylakeproperty@gmail.com
(E-mail)

Applicant: (if different than Property Owner) _____

Address: _____

(Street)

(City)

(State)

(Zip)

Contact Information #: _____

(Home)

(Business)

(Fax)

(E-mail)

Contact Person: (if different than Property Owner) _____

Address: _____

(Street)

(City)

(State)

(Zip)

Contact Information #: _____

(Home)

(Business)

(Fax)

(E-mail)

This Interim Use Permit may be approved if sufficient facts are presented at the Planning Commission and City Council meetings to support a finding that all of the attached criteria for granting an Interim Use Permit have been met.

Obtaining this *Interim Use Permit* does not absolve the applicant from obtaining all other applicable permits, such as Building Permits, MnDOT access permits, etc.

I (We) certify that I (we) have submitted all the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: Nita Gross Date: 11/30/23
(Property Owner)

Nita Gross
(Property Owner-Please print Name)

(Applicant-If different than owner) Date: _____

(Applicant - Please print name)

Interim Use Permit Supporting Information

The City Council may approve an Interim Use Permit if all of the "Criteria for Review of Interim Use Permits" are met. In order to facilitate review of this application for an *Interim Use Permit*, the applicant must address each of the "Criteria", referred to in Section 515-5-3 of the Zoning Ordinance.

1. **Public Health/Safety/Welfare.** The *Planning Commission* and the *City Council* shall review each application for the purpose of determining that each proposed use meets the following criteria referenced to in Section 515-5-2 and in addition, shall find adequate evidence that each use in its proposed location will address the following:
 - (a) The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
 - (b) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
 - (c) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
 - (d) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - (e) The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - (f) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
 - (g) The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

(con't)

Hello,

House rules will be...

No loud noise past 10:30 pm

Not pets

Two parking spaces on 8th Street (in front of house) and two parking spaces on N Holly Street (next to house). Parking will be available in the driveway also.

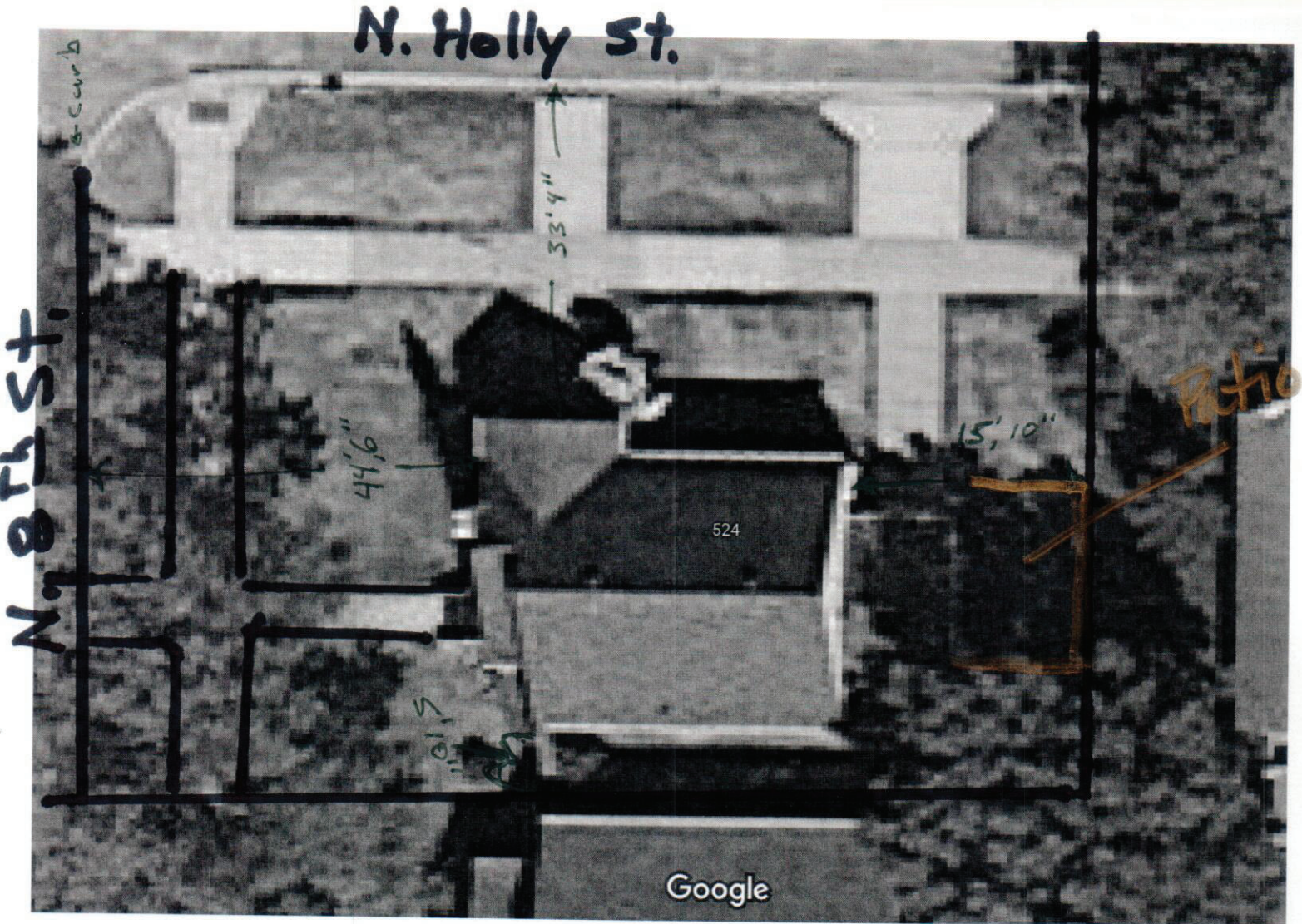
Boat parking only aloud in the driveway.

Two guest rooms, 3 people in one and 2 people in the other.

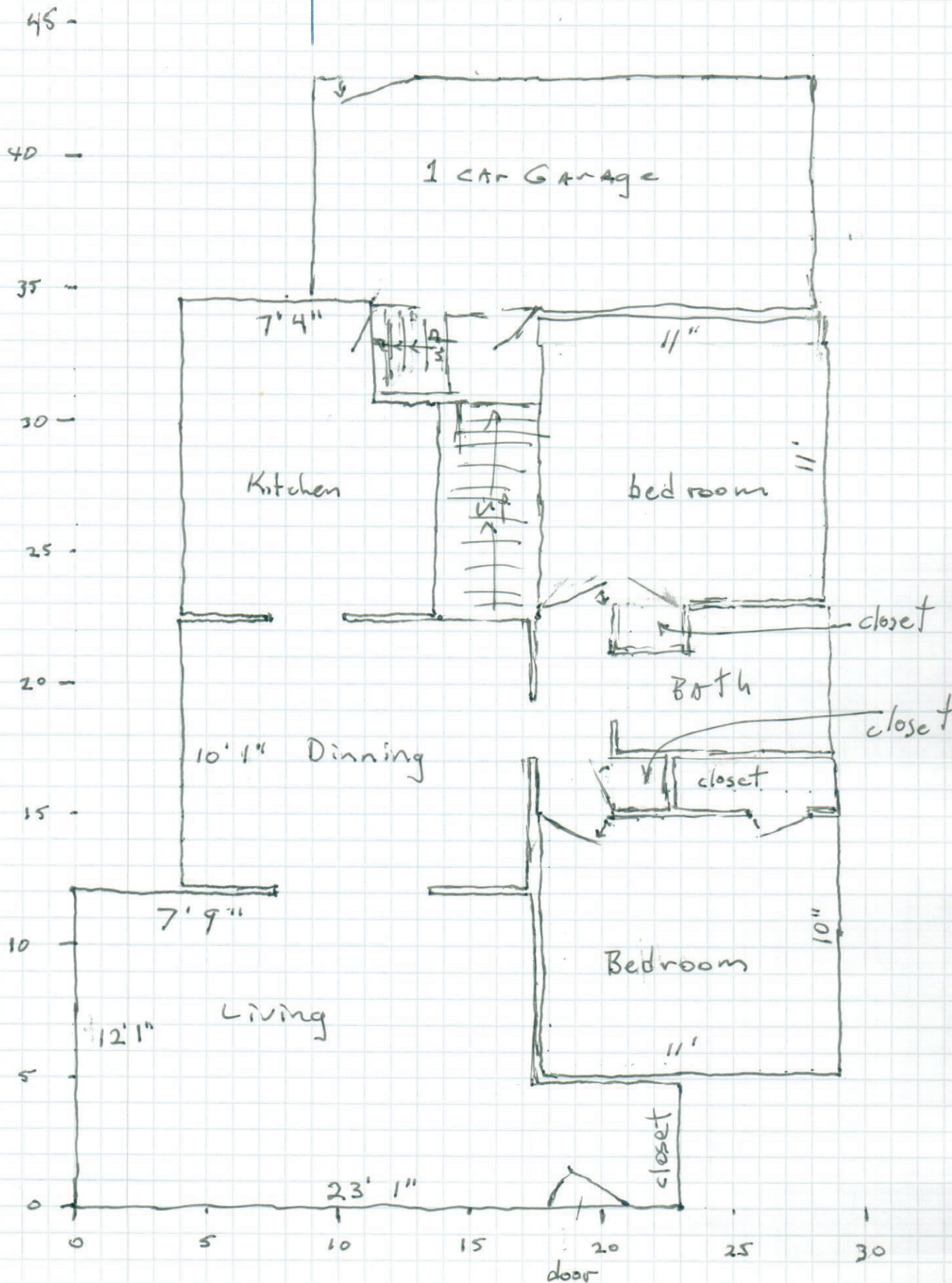
Trash pick up by Waste Partners is on Thursdays, (owner pays). Property manager provides instructions for appropriate handling of trash to the renters.

Please let me know if there is anything else you would like included in the rules.

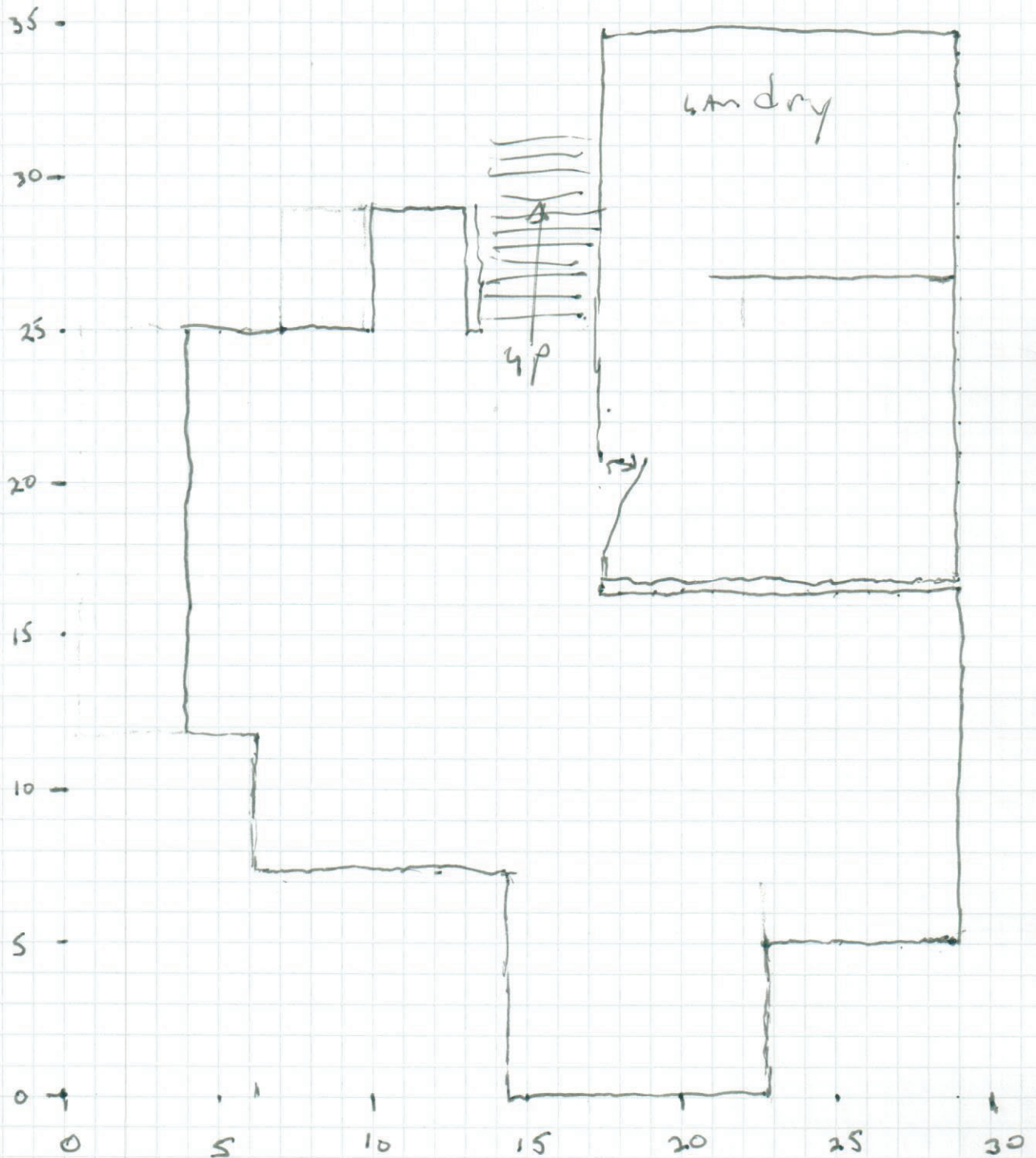
All other information listed on the rental ordinance requirement form will be provided to renters (phone numbers, management contact information, license, safety requirements ect..)



MAIN floor ^{Patio}



Lower level





City Council Agenda Request

MEETING DATE: January 2, 2024

TITLE OF ITEM: Consider Interim Use Permit to Operate a Short-Term Rental at 701 SW 4th St

AGENDA: Main

ACTION REQUESTED: Approve/Deny Motion

SUBMITTED BY: James Kramvik, Community Development Director

DEPARTMENT: Community Development

PRESENTER: James Kramvik, Community Development Director

ESTIMATED TIME (MIN): 5 min

SUMMARY OF ISSUE:

Mr. Norbert Tambe Ebai has applied for a short-term rental at 701 SW 4th St Brainerd, MN.

Staff periodically reviews short-term rental listings online and discovered this property was operating without a rental license or an interim use permit. There were numerous delays with receiving all required documents and with the submittal of a rental license application. Mr. Ebai stated that Crow Wing County had already issued him a short-term rental license, so he believed his property was in compliance. The issuing of short-term rental licenses within the city limits of Brainerd by Crow Wing County has been corrected and they are no longer issuing licenses. The applicant has stated that they have not booked any rentals while initiating the Interim Use Permit process. The property has now been inspected by the Housing Inspector and Fire Marshal and is currently compliant.

The proposed short-term rental has three (3) bedrooms. The dimensions of each of these respective bedrooms are 11'x8', 12'x10', and 11'x12 which allows for an occupancy of (5).

ALTERNATIVE, OPTIONS, EFFECTS ON OTHERS/COMMENTS:

The Planning Commission considered this request at their regularly scheduled meeting on December 20th. The motion was moved and seconded by Commissioners Norwood and Duval, duly carried, to recommend approval of an interim use permit subject to the findings of fact to operate a short-term rental at 701 SW 4th Street Brainerd with the recommended conditions listed. The motion was approved unanimously. Commissioner Duval made a follow-up comment that between now and when this is heard by City Council it would be prudent that this is not advertised as available or occupied as a short-term rental.

The applicant stated that it is his personal property, and he lives in one of the three rooms and that he provides two for short-term rentals. Rooms are typically rented by contractors and traveling nurses. Due to the room rental nature of this proposed short-term rental by Mr. Ebai, staff recommends adding a condition in order for the structure to not be considered a boarding house. "The property owner shall not enter into a lease or contract with more than two individuals at any one time."

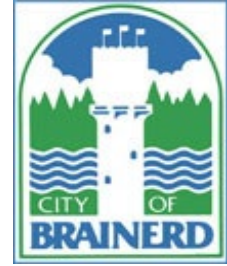
RECOMMENDED ACTION/MOTION:

Recommend approval of the Interim Use Permit subject to the findings of fact for one short-term rental unit at 701 SW 4th St. with the following conditions:

- 1) The property manager's location is verified to be within the required distance of the property.
- 2) The maximum occupancy of the property is set by the Building Official.
- 3) The quiet hours are adjusted for compliance with City Code.
- 4) Submittal of the local option sales tax form to the Finance Department.
- 5) The Interim Use Permit terminates on 12/31/2024 or upon sale or transfer of the property.
- 6) The property owner shall not enter into a lease or contract with more than two individuals at any one time.

FINANCIAL IMPACT: N/A

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: December 20, 2023

RE: Consider Interim Use Permit for a Short-Term Rental at 701 4th St SW

REQUEST

Public Hearing. Interim Use Permit applied by Mr. Norbert Tambe Ebai for a Short-Term Rental at 701 4th St SW Brainerd, MN 56401.

Staff periodically reviews short-term rental listings online and discovered this property was operating without a rental license or an interim use permit. Staff reached out to the property owner and required them to apply for a rental license and interim use permit for a short-term rental within 10 days, to which the applicant did not respond, and the case was about to be brought to Safety and Public Works for further action. Upon receiving some communication from Mr. Ebai, he submitted his application for the interim use permit. Mr. Ebai stated that Crow Wing County had already issued him a short-term rental license, so he believed his property was in compliance. Staff directed the property owner to cease any rentals until the rental license and interim use permit were approved. There were numerous delays with receiving all required documents and for the submittal of a rental license application. The applicant has stated that they have not booked any rentals while initiating the Interim Use Permit process. The property has now been inspected by the Housing Inspector and Fire Marshal and is currently compliant.

CONTEXT

Parcel Numbers: 41090554

Zoning District: Contemporary Neighborhood Two (CN-2) District

Property Area: 16,447 SQFT

Adjacent Uses: North: Single Family Dwelling
East: Single Family Dwelling
South: Single Family Dwelling
West: Single Family Dwelling

Adjacent Zoning: North: Contemporary Neighborhood Two (CN-2) District
East: Contemporary Neighborhood Two (CN-2) District
South: Contemporary Neighborhood Two (CN-2) District
West: Contemporary Neighborhood Two (CN-2) District

AERIAL MAP



FINDINGS OF FACT

1. 701 SW 4th St. Brainerd, MN 56401 is located in a Contemporary Neighborhood Two (CN-2) District. The CN-2 District allows short-term rentals as an Interim Use according to Zoning Code [Appendix A: Table of Uses](#).
2. Short-term rentals must comply with the following minimum standards as required by the [Section 515-3-34](#) of the Zoning Code:
 - a. The maximum rental period shall not be more than 28 consecutive nights.
 - b. The permit holder (owner) of a short-term rental must apply for and receive an interim use permit.
 - i. *The applicant has applied for the Interim Use Permit for the operation of a short-term rental.*
 - c. The application for an Interim Use Permit shall include:
 - i. The number of bedrooms with dimensions and all other sleeping accommodations
 1. *The proposed short-term rental has three (3) bedrooms.*
 2. *The dimensions of each of these respective bedrooms are 11'x8', 12'x10', AND 11'x12'*
 - ii. The number of off-street parking spaces available to guests.

1. *There are approximately four (4) off-street parking spaces allocated to guests, one or two in the garage and at least two in the driveway.*
- iii. All accessory structures and outdoor recreational features available for guest use
 1. *The garage is accessible for guest parking usage.*
 2. *The deck and balcony are always available for guest usage per the listed rules.*
 3. *The barbeque grill is located at the property with strict instructions that it be only used outside of the dwelling.*
- iv. A pet, garbage, and noise policy.
 1. *The rules submitted for the property prohibit the presence of pets at the property.*
 2. *According to the rules, garbage is to be placed in bags in the available trash can. There are no directions as to the date of pick-up or the location of the trash cans at the property.*
 3. *There is a noise policy that prohibits excessive noise and large gatherings. Further, it is noted in the rules that the quiet hours are between 11pm-8am.*
- v. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short-term rental unit.
 1. *Emergency contact information will be required to be placed prior to resuming operations.*
- d. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
 - i. Contact Information. The managing agent or local contact's name, address, and phone number. The agent shall be available 24 hours a day, seven days a week, whenever the property is being rented. Property contact information will always be accessible to the public on the City of Brainerd website.
 1. *Mr. Ebai has contracted Scenic Investment Group to manage his property and included the emergency contact information in the house rules.*
 - ii. Occupancy. The maximum number of guests allowed at the property.
 1. *There is not a defined maximum number of guests, however there is a cap on visitors other than registered guests at three (3). Based on the capacity of the bedrooms the maximum number of guests should be five (5).*
 - iii. Vehicles. The maximum number of vehicles, recreational vehicles, and trailers allowed on the property and where they are to be parked. Parking in a yard that fronts a street as well as along an interior side of a house is required to be on an improved surface. Recreational vehicles shall not be parked in any right-of-way or utility easement. No vehicle or

trailer shall be parked on a street more than forty-eight (48) continuous hours.

1. *The rules state there is to be no full-time street parking, further it is stated that the driveway and garage are the only places parking is allowed to occur. There is no prohibition on recreational vehicles but per the rules if they were present, they would not be allowed to be street parked.*
- iv. Garbage. Garbage and refuse containers shall be placed out for collection no earlier than 6:00 P.M. the day before collection and removed by the end of the day of collection. Garbage shall be placed in fly tight containers sufficient to receive all garbage which may accumulate between times of collection.
 1. *The date and location of the garbage containers, nor their type is conveyed in the rules or submitted documents. The presence of these two containers is noted in the rules.*
- v. Noise. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume to disturb the peace, quiet, or repose of another person.
 1. *A prohibition on parties is stated in the rules along with the quiet hours of the property set at 11:00 pm to 8:00 am. City Code requires quiet hours to begin at 10:00 PM.*
- vi. Pets. No person shall keep, maintain, or otherwise house more than a total of four cats or dogs within any household in the City of Brainerd. It shall be unlawful for any person to allow a dog or cat to run at large and to keep or harbor a dog that habitually barks, yelps, howls, cries, or whimpers to unreasonably disturb the peace and quiet of any person in the vicinity. The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.
 1. *The presence of pets at the property is specifically prohibited.*
- e. The occupancy of a short-term rental shall be limited to no more than 3 people per bedroom or the occupancy set by the Building Official.
 - i. *According to [Section 404.4.1 of the Property Maintenance Code](#), every bedroom shall contain not less than 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m²) of floor area for each occupant thereof, whichever is less.*
 - ii. *There is no proposed limit on guests to the property.*
 - iii. *Bedroom one is 88 SQFT which exceeds the 70 SQFT requirement for one (1) guest.*
 - iv. *Bedroom two is 120 SQFT which exceeds the 100 SQFT requirement for two (2) guests.*
 - v. *Bedroom three is 132 SQFT which exceeds the 100 SQFT requirement for two (2) guests.*

- vi. *Total occupancy of the short-term rental is five (5) guests based on the square footage calculation; the applicant does not state the occupancy within the house rules.*
- f. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the Building Department, whichever is stricter.
 - i. *This property has been inspected by the Rental Inspector and Fire Marshal and is compliant with all codes.*
- g. The short-term rental shall be connected to city sewer and water or an approved septic system. A valid septic system certificate of compliance is required at the time of rental license issuance and annual renewal. A short-term rental shall have a full bathroom (sink, toilet, and tub or shower).
 - i. *The short-term rental is connected to the city sewer and water system.*
- h. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.
 - i. *The tenant has not proposed additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses.*
- i. The permit holder shall keep a report detailing use of the short-term rental by recording the full name, address, phone number and vehicle license number of the guest reserving the rental. A copy of the report shall be provided to the Zoning Administrator upon request.
- j. A short-term rental shall be a licensed rental unit by the City and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to, the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the Fire Marshal.
 - i. *The premise has been inspected by the Housing Inspector and Fire Marshal and all inspections have been approved. The property has not been issued a rental license. The applicant states the property has not been occupied since initiating the IUP application process.*
- k. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety, and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
- l. A permit holder must post their rental license permit number on all print, poster, or web advertisements.
- m. It is the owner's responsibility to apply for state and local sales tax numbers, including hotel and motel use sales tax. It is the owner's responsibility to contact the Minnesota Department of Health about lodging license requirements.
 - i. *The application for short-term rentals includes an application for local sales tax that must be submitted to the City's Finance Department. It is the owner's responsibility to contact the MN Department of Health.*

As of this writing, no parties have contacted the Community Development Department regarding the Interim Use Permit.

STAFF RECOMMENDATION

Staff recommends approval of the Interim Use Permit for one short-term rental unit at 701 4th St SW, Brainerd, MN 5640 with the following conditions:

- 1) The property manager's location is verified to be within the required distance of the property.
- 2) The maximum occupancy of the property is set by the Building Official.
- 3) The quiet hours are adjusted for compliance with City Code.
- 4) Submittal of the local option sales tax form to the Finance Department.
- 5) The Interim Use Permit terminates on 12/31/2024.



Community Development Department

City Hall – 501 Laurel Street Brainerd, MN 56401

218/828-2307

www.ci.brainerd.mn.us

INTERIM USE PERMIT

Application Form (residential - \$250.00 / commercial - \$500.00 + \$500.00 escrow deposit)

(This form must be filled out completely before your application will be accepted).

Property Address for this Interim Use Permit: 701 4th St SW, Brainerd, MN 56401

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow Short Term Residential Rental

_____ at the property address listed above until the date of 12/31/2023

Legal Description (attach, if lengthy): Lot 012 Block 000 Addition _____

Property Owner: Norbert Elai

Address: 701 4th St SW Brainerd MN, 56401
(Street) (City) (State) (Zip)

Contact Information #: 763-634-1088
(Home) (Business)

(Fax)

Applicant: (if different than Property Owner) Norbert Elai

Address: 701 4th St SW Brainerd MN 56401
(Street) (City) (State) (Zip)

Contact Information #: 763-634-1088
(Home) (Business)

(Fax)

Contact Person: (if different than Property Owner) Norbert Elai

Address: 701 4th St SW Brainerd MN 56401
(Street) (City) (State) (Zip)

Contact Information #: 763-634-1088
(Home) (Business)

(Fax)

(E-mail)

Interim Use Permit Site Plan Checklist

Interim Use Permit Site Plan Attachments. Provide a narrative addressed to the City of Brainerd describing the following:

- ☐ Responses to criteria for review of Interim Use Permits on Page 2.
- ☐ Approximate number of employees.
- ☐ Type of clientele.
- ☐ Hours of operation.
- ☐ Number of customer seats, if food service related.
- ☐ Handling of deliveries.

The applicant shall provide a Site Plan, which includes the information described below, as set forth in the Zoning Ordinance.

- ☐ Site Plan drawn to scale on a sheet not less than 11"x17".

NOTE: With approval by City Staff at a Pre-Application Meeting prior to submitting the Site Plan, it may be possible to exclude some of the following items from the Site Plan. Please place a check mark in the box in front of each item that is included as part of the application materials submitted for approval.

- ☐ Name(s) and address (es) of the applicant(s).
- ☐ Name(s) and address (es) of the owner(s) of record of the property.
- ☐ Name and address of the person or firm preparing the site plan.
- ☐ Property address (es).
- ☐ Date of Preparation.
- ☐ North Arrow.
- ☐ Scale: The scale shall not be less than 1"=10', and no greater than 1"=60'.
- ☐ Legal Description.
- ☐ Boundary Survey.
- ☐ Size and location of all existing and proposed buildings, additions, structures and uses, including:
 - ☐ Setback distance to property lines;
 - ☐ Exact exterior dimensions of each building;
 - ☐ Location of entrances;
 - ☐ Number of dwelling units; and,
 - ☐ Square footage of each type of use.
- ☐ Zoning designation of the property.
- ☐ Proposed use of the property in sufficient detail to determine code compliance.
- ☐ Existing and proposed location and size of sanitary sewer mains and service lines.
- ☐ Existing and proposed location and size of water mains, service lines and hydrants, and/or water well.
- ☐ Existing and proposed location and size of electrical service (electrical riser diagram) and the location of high-pressure gas lines, high tension transmission lines, cable TV, and telephone lines.
- ☐ Existing and proposed location and size of storm drainage facilities on the property and adjacent to the property.
- ☐ Location and dimensions of all existing paved surfaces and of all abutting streets.

(con't)

- 12. Existing and proposed location and dimensions of parking areas, individual parking spaces and drive aisles, driveways, curb cuts, easements, and rights-of-way, loading areas, dividers, curbs, islands, and other parking and drive improvements. Also include the number of proposed parking spaces and parking lot construction materials (City Code Section 515-4-12).
- 13. Location of existing and proposed outdoor trash and dumpster areas and methods for screening such areas (City Code Section 515-4-9).
- 14. Location and type of all existing and proposed signs (City Code Section 515-3-35).
- 15. Evidence that the proposed work or activity will comply with the Outdoor Lighting requirements, set forth in Section 515-4-8 of the Zoning Ordinance. Specifically, the application shall include:
 - 15.1 Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices.
 - 15.2 A detailed description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices. The description shall include manufacturer's catalog cuts and drawings, including sections when requested;
 - 15.3 Photometric data, such as that furnished by manufacturers, showing the angle of cut off or light emissions.
- 16. Location of water bodies, watercourses, and flood-prone areas with delineated channel encroachment lines, wetland boundary lines, 100-year flood plain boundary line, and floodway boundary lines. Location of natural features such as: existing trees or hills, wetlands.
- 17. A landscape plan (City Code Section 515-4-9) showing:
 - 17.1 The location of plants.
 - 17.2 Identification of any trees to be removed.
 - 17.3 Protection methods for existing trees during construction.
 - 17.4 Identification of any trees to be removed.
 - 17.5 Protection methods for existing trees during construction.
 - 17.6 Areas to be seeded or sodded.
 - 17.7 Location, dimensions, topography or any berming.
- 18. Location and type of underground sprinkler system.
- 19. A plant that includes:
 - 19.1 The plant species;
 - 19.2 The quantity of each type of plant; and,
 - 19.3 The size of each plant at the time of planting.
- 20. The location of fences and walls (City Code Section 515-4-11).
- 21. Two (2) copies of architectural drawings of all new buildings or structures, or alterations, at a scale not to exceed 1"=8'.
- 22. Building floor plans indicating existing and proposed usage, interior floor area and/or patron floor area.
- 23. A note to be placed on all *Site Plans* to read as follows: "All construction materials, dumpsters, detached trailers, or similar items are prohibited on public streets or within the public right-of-way."

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Mr. Norbert Tambe Ebai has submitted an Interim Use Permit to operate a short-term rental 701 SW 4th St. Brainerd, MN 56401. The property included in this application is described as:

*Lot 12, Block 00
SECOND BONNY WOODE ADDITION TO THE CITY OF BRAINERD
P.I.N. 41090554
Section 09, Township 133, Range 28*

The property is zoned CN-2 (Contemporary Neighborhood Two) District. [Appendix A: Table of Uses](#) of the Zoning Code requires an Interim Use Permit for the operation of a short-term rental in a CN-2 District as regulated by Section 515-3-34 Short-Term Rentals. Information on the proposed short-term rental is on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, December 20, 2023, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the Interim Use Permit.

Any individual needing special accommodation or more information about this request, please call (218) 828-2307.

Dated this 6th day of December 2023



James L. Kramvik
Community Development Director

Publication Date: December 9th, 2023

October 16, 2023

NORBERT TAMBE EBAI
701 4th ST SW
BRAINERD, MN 56401

Dear Mr. Ebai,

Your application for an Interim Use Permit for a short-term rental at 701 4th St SW was received by staff on September 14th, 2023 and payment was processed for the application on October 4th, 2023. Staff reached out multiple times for the submittal of additional documents that are necessary for review by the Planning Commission and City Council. Additional documents that include bedroom dimensions, off-street parking available to guests, and house rules were emailed to staff on 10/15/2023. The Planning Commission packet was published on 10/13/2023. Staff is still awaiting the following document and actions:

- 1) A completed rental license application and an approved inspection by the Building Inspector and Fire Marshal.

Municipalities are required to approve or deny an application for an Interim Use Permit within 60 days of the application submittal which is November 12, 2023 for your application. Minnesota State Statute allows municipalities to extend this review period by another 60 days for approval or denial of Interim Use Permits. The City of Brainerd is extending the time limit by an additional 60 days to act on your request for an Interim Use Permit at 701 4th St SW to operate a short-term rental, which moves the deadline to January 11th, 2023. The City of Brainerd is extending the time limit due to the late submittals and the rental license and inspection that is not yet complete. Please complete the rental license and inspection as soon as possible. There should be no short-term rental reservations at the property until the City Council has approved an Interim Use Permit at your premises. The next Planning Commission submittal deadline is October 31st for the November 15th meeting.

Sincerely,



James Kramvik
Community Development Director
City of Brainerd

AIRBNB HOUSE RULES

All Guests (and any Visitors) staying at 701 SW 4th St, Brainerd, Mn must abide to all the rules of the County, City and of course these house rules.

Complying with these House Rules at the Airbnb Property is a requirement of the vacation rental agreement. Failure to adhere to the below House Rules may result in penalties such as deductions from the security deposit.



1. GENERAL REQUIREMENTS

- a) All Guests (and any Visitors) must comply with all House Rules and any other instructions from the Property Manager during their stay; and
- b) Guests must notify the Property Manager of any disputes or complaints from neighbors as soon as reasonably practicable.



2. NOISE AND THE NEIGHBORHOOD

- a) This Airbnb Rental is not suitable for children under the age of 2 months Old. Guests is fully responsible for the safety and security of their children always, as well as any disturbance caused to other residents in the neighborhood.
- b) Guests and Visitors must keep noise to a minimum as not to disturb the occupants of neighboring properties – especially during nighttime hours (e.g. 11pm – 8am), and upon arrival and departure;
- c) Excessive noise is always prohibited and may result in termination of the Airbnb rental agreement, eviction, loss of rental paid and extra charges which may be deducted from the Security Deposit.
- d) No Parties: No parties or large gatherings is allowed on premise.



3. VISITORS

- e) Guest must respect property, items and neighbors so as not to disturb the peace and tranquility of the neighborhood.
- a) Guests are allowed a maximum of 3 Visitors at any time during their stay.
- b) Guests are responsible for ensuring maximum visitor numbers are not exceeded; and that. Visitors are complicit with these House Rules.
- c) Any additional overnight Visitors must be approved in advance during the booking process and are subject to an additional fee as noted in the price.



4. FUNCTIONS

- a) Parties and large gatherings of any kind are strictly prohibited at the Airbnb Rental; and
- b) Any small gathering must comply with other rules set regarding Noise, the Neighborhood and Visitor numbers.



5. PARKING

- a) Guests and any Visitors are to comply with parking regulations and other requirements set out below and show consideration to neighbors and other vehicles; and
- b) Parking arrangements at the Airbnb Rental are as follows:

Packing is available inside the garage, in front of the garage and temporarily along the side of the road.



6. GARBAGE AND RECYCLING

- a) Guests and their Visitors are to dispose of Garbage and Recycling in accordance with the usual practice at the Airbnb Rental (as set out below) in the allocated trash cans, and excess rubbish must not be left in public or common areas; and
- b) Garbage and Recycling arrangements at the Airbnb Rental are as follows:

Guest must recycle using both trash bags available and put their trash into the trash can available.



7. SECURITY

- a) Any time Guests leave the Airbnb Rental, it is their responsibility to ensure all windows and doors are closed/locked to maintain security and prevent rain and water damage.
- b) Guests must switch off lights, air conditioning, fans, electronics such as televisions when not in use to promote energy saving. It is not permitted to leave the air conditioning on when Guests are absent from the Airbnb.



8. HOT TUB/ SWIMMING POOL

- a) There is no Hot tub/ Swimming pool on this premise.
- a) Guests must supervise any babies and children at all times when using the Deck and Balcony areas.
- b) Specific Deck and Balcony rules are as follows:



9. BALCONY AND DECK AREAS

Deck and Balcony is always available for use.



10. SMOKING

- a) Smoking ☐is / ☐is not permitted inside the Airbnb; and

Smoking is NOT allowed anywhere on premise.

- b) Cigarette butts must be disposed of properly (i.e. in ashtray provided) and not thrown on property grounds. Failure to do so will result in a deduction from the security deposit.



11. PETS

- a) Pets ☒Are not permitted at the Airbnb Rental.
- b) Specific rules regarding Pets at the Airbnb are as follows:

Pets Are NOT allowed in the house.



12. BARBECUE

Guest can use the BBQ grill at the back of the house for grilling. No Grilling inside the House.



13. DAMAGES AND BREAKAGES

- a) All Damages and Breakages must be reported to the Property Manager as soon as reasonably practicable. Failure to report them will likely result in a penalty deduction from the security deposit. And;
- b) To avoid Damages and Breakages, no furniture is to be moved from one room to another without prior agreement. Also.
- c) No bathroom towels are to be removed from the property (i.e., for beach use). Separate beach towels are provided for this purpose.



14. CHECK-OUT ARRANGEMENTS

- a) Rules for key handover, security, cleaning, garbage, etc. are as follows:

Guest must leave the premise cleaned and returned the keys to the appropriate location before check-out.



15. EMERGENCY CONTACT DETAILS

- a) In the event of an emergency relating to the Airbnb, your emergency contact is:

Emergency Contact:
Email: scenicinvestmentg@gmail.com
Tel: +1-763-634-1088



16. COMPLIANCE

- a) Breach of any of these House Rules is a breach of the Terms and Conditions of occupancy as per the Rental Agreement.

The Owner and Manager reserve the right to terminate permission to occupy and to evict from the Airbnb Rental, any Guests or Visitors who refuse to follow these House Rules or who cause a nuisance to neighbors or other residents of the community.

Dylan Edwards

From: Tambe Norbert <norbe072@umn.edu>
Sent: Sunday, October 15, 2023 11:55 PM
To: Dylan Edwards
Subject: Re: IUP for Short Term Rental at 701 4th St SW
Attachments: 701 Sw 4th St Brainerd Airbnb-House-Rules_EN.pdf

*** **Warning:** External sender, use extreme caution with attachments and links ***

Dear Mr Edwards,

Here is the additional information needed for the IUP.

I cannot find the floor plan for this property at this time. I will have to look again to find this document.

But it is a 3 bedroom 2 bathroom house with all bedrooms and bathrooms on the Main Level:

Here is the Room Size information (Feet x Feet)

- Bedroom 1 Description: (1st) Bedroom
- Bedroom 1 Dimensions: 11x8
- Bedroom 2 Description: (2nd) Bedroom
- Bedroom 2 Dimensions: 12x10
- Bedroom 3 Description: (3rd) Bedroom
- Bedroom 3 Dimensions: 11x12

There is a lower bedroom in the basement but it is not available for guests.

Let me know if you have any questions

Cheers
Norbert

"What I cannot create I do not understand"
Richard P. Feynman

On Wed, Oct 11, 2023 at 10:54 AM Dylan Edwards <dedwards@ci.brainerd.mn.us> wrote:

Dear Mr. Ebai

We have received payment but none of the following items:

- A copy of the short-term rental's rules
- The dimensions of all bedrooms present in the property.
- A floor plan of the property.
- An application for a City of Brainerd Rental License