

NOTICE OF MEETING



CITY OF BRANSON

HUMAN RESOURCES COMMITTEE

Committee Meeting – Friday, December 16, 2016 – 10:30 a.m.
Municipal Courtroom – Branson City Hall – 110 W. Maddux

AGENDA

- 1) Call to Order.
- 2) Roll Call.
- 3) Acknowledgment of November 9, 2016 Minutes.
- 4) Update of New Employees.
- 5) Discussion of the 2018 H&W Incentive Requirements (Employees will meet in 2017). [Current Wellness Plan] [Current Non-Tobacco Plan] [1st Quarter Checklist]
[Wellness Incentive Plan]
- 6) Discussion of HR Manual Changes. [Article 15 and Rule 4 Update] [Article 15]
[Rule 4] [FLSA Hours Worked Fact Sheet]
- 7) Update from the City's Safety Team.
- 8) Discussion of 2017 Meeting Dates.
- 9) Human Resources Director's Report.
- 10) Adjourn.

Where Values are the Difference
DECEMBER: ACCOUNTABILITY
Accepting responsibility for all your actions.

Posted: December 15, 2016

For more information please visit www.bransonmo.gov or contact:

At: _____ By: _____

Lisa Westfall, City Clerk, 417-337-8522

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MINUTES

HUMAN RESOURCES COMMITTEE

CITY OF BRANSON, MISSOURI

November 9, 2016

1) Call to Order

The Human Resources Committee met in the Municipal Court Room of City Hall, Wednesday, November 9, 2016 at 9:00 a.m. The meeting was called to order by Mayor Karen Best.

2) Roll Call

Committee Members present were Donna Glotz, Kevin McConnell, Mayor Karen Best, and City Administrator, Bill Malinen.

Also present: Jan Fischer, Morgan Wermuth, Bob Smither, Kathy Olson, and Kimberly Cooper.

3) Acknowledgement of October 10, 2016 minutes.

The minutes of the October 10, 2016 were acknowledged on a motion by Donna Glotz, seconded by Bill Malinen. Motion approved by a 4 to 0 count.

4) Update of New Employees.

Jan Fischer provided a list of New Hire names since the last HR Committee Meeting. The Committee discussed the list of new hires.

5) Discussion of the 2018 H&W Incentive Requirements (Employees will meet in 2017).

Jan Fischer shared another draft of the changes to the Health and Wellness Plan that he created with the help of the Cox Wellness Department, the Employee Human Resources Committee, and legal counsel. He informed the Committee that the plan will be tracked electronically through Cox Health Express as the City is already paying for the use of the software with the online Annual Health Risk Assessments. He shared that he plans on bringing the plan to the Department Heads and requested the Committee approve and recommend the basic structure of the plan to the Board of Alderman. He said that he would like to make minor changes after he gets the Department Head input but will not make any more major changes. Bill Malinen made a motion to recommend the basic structure of the plan to the Board of Alderman. Donna Glotz seconded the motion. Motion was approved by a 4 to 0 count.

7) Discussion of the Compensation Study and Selection Criteria for Comparative Municipalities.

Jan Fischer presented the Committee the list of municipalities and organizations that were used during the last Compensation Study and asked for their recommendations of what the City should focus on. Jan shared that T. L. Cox from Springsted suggested that the list of organizations should be kept down to a list of around 15 to ensure that the information is clear and concise. The committee discussed that they would like the main focus to be on regional employers and have a few organizations that are also tourist based. The Committee also discussed the timeline of the Compensation study. Jan also presented the Committee the packet of information that each employee will be responsible for completing. The Committee discussed the information.

8) Human Resources Director's Report.

Jan Fischer updated the Committee on the plan for selecting the City's next Assistant Police Chief. Jan reported the City's plan on facing the new Fair Labor Standards Act law increasing the Exempt wage to \$47,676.00. Jan also requested to have input on selecting a new meeting date and time for the 2017 meetings.

9) Adjourn.

A motion to Adjourn was made by Kevin McConnell, seconded by Donna Glotz. Motion approved by a 4 to 0 count.

Promotions and Transfers

| <u>Name</u> | <u>Date of Change</u> | <u>Position</u> | <u>Department</u> | <u>Promotion or Transfer</u> |
|------------------|-----------------------|----------------------|-------------------|------------------------------|
| Steven Jones | 11/28/2016 | Maintenance Worker I | Parks | Promotion |
| Justin Stutesmun | 11/26/2016 | Plant Operator I | Utilities | Promotion (Reclass) |

Hires

| <u>Name</u> | <u>Date of Hire</u> | <u>Position</u> | <u>Department</u> | <u>Rehire or New Hire</u> |
|---------------|---------------------|------------------|-------------------|---------------------------|
| Hanna Patton | 12/06/2016 | Dispatcher | Police | New Hire |
| Sheena Bryant | 12/12/2016 | Court Specialist | City Clerk/Court | New Hire |



CITY OF BRANSON

2017 EMPLOYEE HEALTH & WELLNESS INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS (REQUIREMENTS MUST BE MET DURING 2016)

To qualify for the 2017 Employee Health & Wellness Incentive Program, which may affect premiums for Employee Coverage under the City's Group Health Insurance Plan during 2017, **an employee must complete the following requirements between January 1, 2016 and December 15, 2016:**

1. Complete a Health Risk Assessment ("HRA") Questionnaire and Biometric Screening during 2016. the City's annual Health & Wellness Fair **or** complete an HRA Questionnaire and comply with testing requirements outlined on an HRA Equivalent Biometric Screening Requirements form (form may be obtained from the Human Resources Department for the employee's personal physician to complete). At the employees choosing, the confidential **sealed** results will be provided to the City's Human Resources Department for delivery to the HRA provider OR mailed directly to the HRA provider by the employee.

AND

2. Attend, view or participate in three wellness presentations or activities to be offered by the City during 2016.

AND

3. Choose and complete a minimum of 60 passive option points and 80 active option points each month during 2015, and return the completed Wellness Points Quarterly Checklist to the Human Resources Department within 7 business days after the end of each calendar quarter.

IF AN EMPLOYEE COVERED UNDER THE CITY'S HEALTH INSURANCE PLAN COMPLETES THE ABOVE REQUIREMENTS BY DECEMBER 15, 2016 AND PARTICIPATES IN THE 2017 EMPLOYEE NON-TOBACCO USER INCENTIVE PROGRAM, THE EMPLOYEE WILL BE ELIGIBLE FOR THE LOWEST OUT-OF-POCKET EMPLOYEE COVERAGE HEALTH INSURANCE PREMIUM RATE TIER DURING 2017. Covered employee's choosing not to participate in the City's 2017 Employee Health & Wellness Incentive Program or who fail to complete ALL of the above outlined requirements during 2016 to qualify for participation in the 2017 program will pay an additional percentage of their Employee Coverage health insurance premium costs during 2017 for that reason alone.

If it is unreasonably difficult for an employee to meet the requirements of this program due to a health factor, or if it is medically inadvisable for an employee to attempt to meet the requirements of this program, the employee shall contact the City's Human Resources Department to request a reasonable alternate standard. An employee who fails to request a reasonable alternate standard will pay an additional percentage of his/her Employee Coverage health insurance premium costs. Provisions of this incentive program may change during 2016. Should any changes occur, affected employees shall be notified in writing on or before September 1, 2016.

I have read the above 2017 Employee Health & Wellness Program Incentive Program Requirements and understand my options under these requirements.

PLEASE CHECK THE APPLICABLE OPTION:

_____ **YES-** I choose to participate in the 2017 Employee Health & Wellness Incentive Program

_____ **NO-** I choose **not** to participate in the 2017 Employee Health & Wellness Incentive Program

Signature

Printed Name

Date



CITY OF BRANSON

2016 EMPLOYEE NON-TOBACCO USER INCENTIVE PROGRAM ELIGIBILITY REQUIREMENTS

PLEASE CHECK THE APPLICABLE OPTION:

_____ **I am not a tobacco user and do not intend to begin using tobacco in 2016.** If I do begin using tobacco during 2016, I agree to immediately notify the City's Human Resources Department and I will be required to pay 15% of the Employee Coverage health insurance premium costs in 2017.

_____ **I am a tobacco user but will stop using tobacco before January 1, 2016 (or, for new employees, the first day of the month following the month of hire)...OR...I will enroll in a qualifying tobacco cessation program provided at no cost to me by the City of Branson through its Employee Assistance Program (EAP).** *Employees who elect this option will not be required to pay 15% of the Employee Coverage health insurance premium for 2016, but they be required to stop using tobacco or complete the tobacco cessation program, otherwise they will be obligated to pay 15% of the Employee Coverage health insurance premium in 2017.*

_____ **I am a tobacco user and will continue using tobacco in 2016.** (I realize that I will be obligated to pay 15% of the Employee Coverage health insurance premium costs during 2016 because of this.)

_____ **I am not a tobacco user but I choose not to participate in this program.** (I realize that I will be obligated to pay 15% of the Employee Coverage health insurance premium costs during 2016 because of this.)

The City of Branson retains the right to require reasonable suspicion tobacco use testing of employees during all times an employee is claiming benefits under the City's Employee Non-Tobacco Use Incentive Program.

IF AN EMPLOYEE COVERED UNDER THE CITY'S HEALTH INSURANCE PLAN PARTICIPATES IN THE 2016 EMPLOYEE NON-TOBACCO USER INCENTIVE PROGRAM AND COMPLETED ALL OF THE 2016 EMPLOYEE HEALTH & WELLNESS INCENTIVE PROGRAM REQUIREMENTS, THE EMPLOYEE WILL HAVE 100% OF HIS/HER EMPLOYEE COVERAGE HEALTH INSURANCE PREMIUM COSTS PAID BY THE CITY DURING 2016. Covered employee's choosing not to participate in or who fail to qualify for the City's 2016 Employee Non-Tobacco User Incentive Program will pay 15% of their Employee Coverage health insurance premium costs during 2016 for that reason alone.

If it is unreasonably difficult for an employee to meet the requirements of this program due to a health factor, or if it is medically inadvisable for an employee to attempt to meet the requirements of this program, the employee shall contact the City's Human Resources Department to request a reasonable alternate standard. An employee who fails to request a reasonable alternate standard may be required to pay 15% of his/her Employee Coverage health insurance premium costs for 2017.

I have read the above 2016 Employee Non-Tobacco User Incentive Program Requirements and understand my options under these requirements.

By signing below, I am stating I am aware that falsification of information regarding tobacco usage is grounds for disciplinary action as stated in the Human Resources Manual Rule 4, Section 2B(4)a: dishonesty in any form or degree. If I am found to have provided false information or to have failed to immediately notify the City's Human Resources Department as required by my above-selected option, I understand I will be responsible for paying the additional 15% Employee Coverage health insurance premium in 2017.

Signature

Printed Name

Date



2016 Wellness Points - Quarterly Checklist

The successful completion of the Health & Wellness Incentive Program will be based on meeting monthly objectives. **Each month requires 140 Points.**

PASSIVE OPTIONS

Complete a **Minimum of 60 Points** per Month

(Mix and/or repeat options to fulfill objective requirements)

| | Tracking is Self Monitored | Completion Month | Completion Month | Completion Month |
|---|----------------------------|------------------|------------------|------------------|
| | Points: | Jan. 2016 | Feb. 2016 | Mar. 2016 |
| Complete a preventative screening: physical exam, wellness check, dental exam, vision exam, mammogram, etc. | 40 | | | |
| Drink 640 ounces of water per month. (Average of 160 ounces of water per week) | 20 | | | |
| Eat vegetables and/or fruits at least 16 days per month | 20 | | | |
| Take blood pressure 1 time per month. | 20 | | | |
| Attend a health related seminar or view a recording. | 20 | | | |
| Attend a preventative therapy treatment: massage, chiropractor, spa treatment, etc. | 20 | | | |
| Take part in a workplace wellness challenge. | 20 | | | |
| Eat a healthy meal 10 times per month. | 20 | | | |
| Attend a wellness related session: financial wellness, tobacco cessation, Employee Assistance Program (EAP), etc. | 20 | | | |
| Stretch at least 120 minutes per month. | 20 | | | |
| Volunteer for or participate in a community/charity event. | 20 | | | |
| Find and read 2 health or wellness related articles. | 20 | | | |
| Donate blood. | 20 | | | |
| Participate in a stress reduction activity: Meditation, etc. | 20 | | | |
| Get a flu shot. | 20 | | | |
| Stamp Passport. (Offered Annually at Wellness Fair) | 20 | | | |
| Other: | 20 | | | |
| TOTAL (Minimum 60 points per Month) | | | | |

ACTIVE OPTIONS

Complete a **Minimum of 80 Points** per Month

(For every 30 minutes, as labeled, you earn 10 points)

| | Tracking is Self Monitored | Completion Month | Completion Month | Completion Month |
|---|----------------------------|------------------|------------------|------------------|
| | Points: | Jan. 2016 | Feb. 2016 | Mar. 2016 |
| Participate in an organized medically based weight loss program: 30 minute Session | 20 | | | |
| Participate in a more physically challenging stress reduction activity: Yoga, Tai Chi, etc. : 30 minute Session | 10 | | | |
| Attend a gym or fitness center: 30 minute Session | 10 | | | |
| Complete yard work (push mowing, raking, etc.): 30 minute Session | 10 | | | |
| Housekeeping (dusting, vacuuming, etc.): 30 minute Session | 10 | | | |
| Participate in strength training (lifting weights, band exercises, etc.): 30 minute Session | 10 | | | |
| Participate in aerobic exercise (running, swimming, jogging, biking, walking, etc.): 30 minute Session | 10 | | | |
| Utilize proper safety techniques: 100% seatbelt usage, wearing safety helmets, testing smoke alarms monthly, etc. | 10 | | | |
| Walk 7,500 steps | 10 | | | |
| Participate in a recreational fitness activity (dancing, canoeing, sledding, etc.): 30 minute Session | 10 | | | |
| Participate in an organized sport, race or competition: 30 minute Session | 10 | | | |
| Other: | 10 | | | |
| TOTAL (Minimum 80 points per Month) | | | | |

Participants in the City of Branson Employee Health & Wellness Program must complete 60 passive points and 80 active points each month. Points in each category can be mixed and/or combined to equal the total required points for that category. This checklist must be completed and submitted to the Human Resources Department no later than 7 calendar days after the applicable quarter ends.

****If it is unreasonably difficult due to a health factor for you to meet the requirements under this Program (or if it is medically inadvisable for you to attempt to meet the requirements of this Program), we will make available a reasonable alternative standard for you to avoid the 15% surcharge.**

Employee Name: _____ Signature: _____ Date: _____

MEMORANDUM

TO: Human Resources Committee Members
FROM: Jan Fischer, Human Resources Director
DATE: December 14, 2014
SUBJECT: Policy Updates – Draft (not yet to EHRC or Directors)

Article 15

Section 1. Work Period

The update provides a clearer understanding of what is compensable work time under FLSA.

Section 3. Meal Breaks

B. Provides greater guidance around meal breaks.

Section 4. Overtime

A. Compensable Factors

The City of Branson's overtime policy is not in alignment with Fair Labor Standards. The current policy indicates that overtime shall "only" be compensable if it is authorized. FLSA standards indicate that unapproved recorded time worked (e.g., working off the clock; "to suffer or permit to work"; etc.) is compensable. The update cleans up this language to be in alignment with FLSA standards.

The update also clarifies who is eligible under the Fire Department and Police Department definitions. It provides specific text to delineate current standards for overtime in the Police Department.

B. Provides more guidance on how overtime should be scheduled and approved.

C. Consequences for working overtime without pre-authorization

This new addition provides for consequences if an employee works overtime without pre-authorization. It also speaks (repeated in A. above) to clarifying "emergency" and "extraordinary" condition that may necessitate a non-exempt employee working overtime without pre-authorization.

D. Clarifies the language for the Department Head and City Administrator to set the limit on accrued Compensatory Time. This was driven primarily by practical functionality of the constraints of 12 and 24 hour shifts in the Police and Fire Departments not aligning well with a 24-hour limit.

Rule 4

Section 2. Disciplinary Action

B. (3). Examples of undesirable behavior normally considered serious

I. Adding an example of a non-exempt employee recording overtime without pre-authorization and where an emergency or extraordinary circumstances did not exist.

ARTICLE 15 - WORK PERIOD, OVERTIME, COMPENSATORY TIME & HOLIDAY PAY

Section 1. Work Period

As hours of work vary considerably within the various departments, employees will be advised of regular work hours by the Director. Each department will set the work cycle period with the approval of the City Administrator. **The work period generally includes times an employee is required to be in attendance at his or her normal job location, but it also may include training time, travel time, and other job-related activities in various locations.** All definitions and principles of work and work cycles, will conform ~~with~~ to the guidelines established by the Fair Labor Standards Act (FLSA) and this manual.

Department Heads and supervisors are responsible for directing the work schedules of their staffs. Supervisors must be aware that work required of, or knowingly allowed to occur, by non-exempt employees, either “off the clock,” voluntarily or in other ways as delineated as “Hours Worked” under FLSA, is still compensable (i.e., the employee must be paid for his or her time worked).

Section 2. Pay Period

The pay period and pay day shall be every fourteen (14) days. The beginning and ending dates of the pay period shall be as designated by the City Administrator.

Section 3. Meal Breaks

- A. The general policy of the City pertaining to meal breaks is that all employees, except those listed in Subsection C below, shall eat on their own time. They shall be allowed to cease work for meal breaks as determined by Directors, and shall not be paid for that time.
- B. Directors may adjust the length **and timing** of meal breaks when it will contribute to the effectiveness of the department, but in ~~no~~ **most cases, meal breaks will not** be less than thirty minutes **of uninterrupted time where no work is performed. In other cases, in lieu of a meal break, Directors may allow employees to “work through lunch” to make up for other time taken (flex time) off work.**
- C. Fire Department employees who work more than a forty (40) hour week, Police Department employees designated by the Police Chief, and Public Works employees designated by the Director, shall receive paid meal breaks. In order to qualify for paid meal breaks, employees must be on call during their entire work shift and not leave the work premises unless authorized and must respond to duty calls during meal breaks if necessary. Failure to respond to duty calls will be grounds for disciplinary action.

Section 4. Overtime

All non-exempt employees in the City's service shall be compensated for overtime hours worked by either overtime pay or compensatory time at the rate of one and one-half times their regular rate.

A. Overtime shall be compensable only if it is:

- (1) ~~Authorized~~ Accurately recorded time worked immediately following the conclusion of the work period; and
- (2) In excess of:
 - a) 40 hours worked by non-exempt employees during the seven day period established by the City Administrator; or
 - b) 212 hours worked by firefighters, fire engineers and fire captains during the 28 day work period established by the City Administrator; or
 - c) 171 hours worked by ~~police officers~~ during the a 28 day work period, or 80 hours worked during a 14 day work period, by police officers or police sergeants, as established by the City Administrator.
- (3) Authorized and scheduled vacation leave, and compensatory time, shall be deemed hours worked for purposes of this section. Sick time, personal max time, floating holiday time, holiday ~~comp.~~ compensatory time and holiday time hours do not count towards overtime.

B. The City expects employees to receive prior direction or authorization from the Department Head, or his/her designee to work overtime. The Subsections below outline the preferred method of working outside of regularly scheduled hours:

- (1) To avoid disciplinary action, the Director, Department Head or his/her designee must pre-approve the accrual of overtime. In situations where pre-approval is not obtained, a bona fide emergency or extraordinary circumstances must exist. The Department Head will make the determination of what constitutes a bona fide emergency or what constitutes extraordinary circumstances ~~Outside of a bona fide emergency, all accrual of overtime must be pre-approved by the Director, or his designee.~~
- (2) Overtime may be authorized ~~only~~ by the Director when necessary for the protection of property or human life, ~~or~~ when under extraordinary circumstances, or when it is clearly in the best interest of the City. A Director or supervisor may, in his or her discretion, schedule flex-time, which is time off for an employee, offset hour for hour during a particular work period to

compensate for excess hours worked during a previous day of the same work period without accrual of overtime.

C. A non-exempt employee may be subject to progressive discipline as outlined in Rule #4, Corrective and Disciplinary Action for recording overtime worked when:

- (1) The employee fails to get advanced authorization to work overtime; and
- (2) No bona fide emergency or extraordinary circumstances existed requiring the employee to work overtime.

D. Overtime Compensation

- (1) Overtime compensation shall be computed on regular rate of pay. If overtime is to be paid, it must be recorded and paid, at one and one-half times **the recorded time worked**, on the payroll immediately following the conclusion of the work period in which the overtime is worked. If overtime is to be applied to compensatory time, it must be recorded at one and one-half time.
- (2) The decision to pay overtime or to record it as compensatory time shall be at the discretion of the Director.
- (3) Exempt employees are excluded from overtime compensation. Exempt employees are expected to know and understand their schedule and work required. They shall be responsible for planning and accomplishing work assigned to them regardless of the time required.

E. Compensatory Time

- (1) Compensatory time may be granted in lieu of paid overtime to all non-exempt employees. Compensatory hours shall be accrued at 1.5 hours for every one hour of overtime worked.
- (2) Outside of a bonafide emergency **or extraordinary circumstance**, all accrual of compensatory time must be pre-approved by the Director.
- (3) Compensatory time ~~shall not~~ **will** accrue **up to beyond** 24 hours (36 for firefighters, ~~and~~ Police patrol officers, and Dispatch employees), except when specifically **recommended by the Department Head and** authorized in advance by the City Administrator ~~for extraordinary circumstances~~.
- (4) Accumulated compensatory time shall be paid when the accrued compensatory time exceeds the maximum, or upon separation for any reason, including death of the employee.

- (5) When an employee will take compensatory time off shall be determined by and scheduled at the discretion of the employee's Director, with due regard for the wishes of the employee and the needs of the City.
- (6) Every employee who has reached regular employee status, or has been granted the right to use compensatory time, and who has accrued compensatory time and leaves the City, shall have such time paid on the last paycheck issued to the employee by the City.

Section 5. Holidays

A. Designated

The City will grant 8-hours of paid holiday time off work to all full-time employees ~~on~~ for the holidays listed below:

New Year's Day - January 1
Martin Luther King Day - Third Monday in January
President's Day - Third Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4
Labor Day - First Monday in September
Veteran's Day - November 11
Thanksgiving Day - Fourth Thursday in November
Friday following Thanksgiving Day
Christmas Eve - December 24*
Christmas Day - December 25*
Floating Holiday - To be used at the employee's choosing, taken in its entirety and not broken into increments, and with prior approval of the Director. ** Unused Floating Holiday time will not be paid out upon separation from employment.

If an observed holiday falls on a Saturday, it will be observed by the City on the preceding Friday, and, if any such holiday should fall on a Sunday, it will be observed by the City on the following Monday.

*If Christmas falls on a Saturday, Sunday or Monday, then the Friday before and Monday will be observed by the City as the Christmas Eve and Christmas Day holiday.

*If Christmas falls on a Tuesday, Wednesday, or Friday, then the day before Christmas will be observed by the City as the Christmas Eve holiday.

*If Christmas falls on a Thursday, then the day after Christmas will be observed by the City as the Christmas Eve holiday.

The City reserves the right to change the observed day in the event that business conditions necessitate such a change.

The Mayor or City Administrator may grant additional days of holiday pay in extraordinary cases.

B. When on Leave or Separated from Service

Employees shall receive no additional pay while on paid leave when a holiday occurs, rather, 8 hours of holiday pay will be substituted for 8 hours of the vacation or sick leave being used. When an employee is on FMLA leave, the holiday will be paid if the employee is on paid leave, and won't be paid if the employee is on unpaid leave. Employee must work or be on paid leave the last scheduled work day before the holiday and the first scheduled day after the holiday to be paid for the holiday. An employee who is separated from City service when the last day worked is the last working day before a holiday shall not be paid for the holiday.

C. Compensation for Working on a Holiday

Employees, other than exempt and unclassified employees, shall receive compensation at the regular rate of pay for each hour worked on a holiday. Additionally, the employee shall receive 8 hours of holiday time to either be paid OR used as a day off at another time. Exempt and unclassified employees who are required to work on a holiday shall accrue 8 hours of holiday time to be used on another day. Accrued holiday leave shall be used before all other accrued leave (except sick). Accrued holiday leave shall be used within 90 days after the end of the fiscal year and shall not accrue beyond 24 hours (48 for firefighters) throughout the fiscal year. All accrued holiday time shall be paid out at separation of employment.

Section 6. Recording of Time

Increments of **one-quarter (1/4)** hour shall be used to record time worked compensatory time, and leave credits used in increments of less than one complete hour.

CITY OF BRANSON, MISSOURI
ADMINISTRATIVE RULES

RULE NUMBER 4 REFERENCING ARTICLE 4 OF THE HUMAN RESOURCES MANUAL
AMENDED 5-1-2010, 1-1-2011, 7-13-2011, 7-10-2012, 7-1-2015, 7-26-2016

A RULE PERTAINING TO **CORRECTIVE AND DISCIPLINARY ACTIONS**

Section 1. General

Unclassified employees of the City Administrator and Board of Aldermen; therefore, the provisions for corrective and disciplinary actions set forth in this article shall not be applied to unclassified employees. Likewise, unclassified employees are not entitled to the grievance or appeal rights granted to classified employees.

Section 2. Disciplinary Action

- A. The City reserves the right to discharge, suspend, demote, or otherwise discipline employees for violations of all laws, Human Resources Articles, Administrative Rules, or department Administrative Rules. The disciplinary process involves four steps of progressive discipline for infractions of a similar nature and which are of a nature not normally serious enough to constitute cause for immediate suspension or dismissal. The seriousness of an offense shall be determined by the Director, the Human Resources Director and the City Administrator. Each step, as noted below, shall be documented and discussed with the employee. The employee will sign and be given a copy of the documentation, such signature being an acknowledgment of the employee having read and understood the disciplinary action, not an acknowledgment that the employee agrees with the disciplinary action.

The progressive steps are:

- | | |
|-----------------|---------------------------|
| First offense: | Documented verbal warning |
| Second offense: | Written warning |
| Third offense: | Suspension or Demotion |
| Fourth offense: | Dismissal |

- B. The progressive disciplinary system listed above is intended to serve as warning to the employee that he **or she** needs to correct the infractions which are the subject of the progressive disciplinary action and that further incidents will result in suspension or dismissal. The City reserves the right to determine that any violation

of any of the other work rules during the course of a progressive disciplinary action may constitute grounds for immediate dismissal.

- (1) Employees hired before or on December 31, 2009: Disciplinary action(s) not considered serious enough for immediate dismissal, demotion, or suspension, shall be removed from an employee's personnel file on completion of two years of continuous service free from additional disciplinary actions.

Employees hired after December 31, 2009: All disciplinary actions shall remain a part of the employee's permanent personnel file.

- (2) Directors shall have the right to discipline employees up to and including dismissal, provided however, that all actions to suspend, demote, or dismiss employees shall be subject to all other due process requirements as established in the City's Human Resources Manual. All disciplinary actions shall require the review and approval of the Human Resources Director and the City Administrator. In addition, all dismissals, demotions and suspensions shall require the approval of the City Administrator. Supervisory employees shall have the right to initiate progressive disciplinary action with the approval and with the authority of the Director.
- (3) Examples of offenses not normally considered serious enough to warrant immediate suspension, demotion or dismissal are as follows. This list does not constitute a complete and total listing of offenses but is for illustrative purposes only.
 - a. accidental destruction or loss of City property or City records
 - b. improperly using or obtaining leave time
 - c. tardiness
 - d. absence from work area without permission or proper notice
 - e. interference with the regular conduct of City business
 - f. consistent or continual unavailability for work
 - g. negligence or improper conduct leading to damage of public or private property or resources
 - h. excessive absenteeism, any absence without notice, or a consistent pattern of sick time usage observed by the director as potential abuse as described in Article 17, Section 15.

- i. engaging in habits which interfere with the individual's or any other employee's performance on the job
- j. disrespectful conduct
- k. violation of any other Human Resources Article, Administrative Rule, work rule or departmental policy, either expressed in writing or verbally by a supervisor
- l. a non-exempt employee recording time worked that results in overtime being paid without first obtaining supervisory authorization – combined with where no emergency or extraordinary circumstances existed (note: In such situations where an emergency or extraordinary circumstance existed, recording time worked that results in overtime paid shall not be considered an offense. Such determination of emergency or extraordinary circumstance shall be made by the Department Head).

(4) Examples of offenses which may constitute sufficient cause for immediate suspension, demotion or dismissal are as follows. This list does not constitute a complete and total list of offenses but is for illustrative purposes only. The City reserves the right to determine that any violation of the rules may constitute cause for immediate suspension, demotion or dismissal depending on the circumstances relating to the offense.

- a. dishonesty in any form or degree
- b. theft or inappropriate removal or possession of property or records belonging to the City
- c. knowingly making false statements in matters relative to employment
- d. insubordination or other severely disrespectful conduct
- e. abusive language, written or spoken, or abusive conduct toward a client, citizen or other individual in the community or City employee
- f. verbal or non-verbal harassment
- g. disregard for the City's EEO policy prohibiting discrimination
- h. solicitation or acceptance of money or anything of value to influence decisions in public matters or as a reward for such decisions

- i. possession of any type of weapon inside any City building **or City vehicle** ~~or on the employee's person or in any private vehicle parked on non-leased City property; handling of any weapon on City property, even in private vehicles.~~ This section shall not pertain to law enforcement or military officers in the performance of their duties. Possession of any weapon(s) is strongly discouraged on City property
- j. possession, distribution, sale, consumption or being under the influence of any alcoholic, narcotic or other controlled substance while on City property.
- k. unauthorized disclosure of confidential information, **except where protected by law**
- l. fighting or threatening violence in the workplace
- m. unsatisfactory performance or conduct
- n. inappropriate use of any personal media device while on duty, or city issued device at any time. This includes unauthorized taking, displaying, or transmitting of any images or documents, at any time, that are taken by such media device during work hours for any means other than official business of the City of Branson. This also includes recording conversations of other employees without their knowledge or without the prior written permission of the Department Head, the Human Resources Director and the City Administrator.
- o. using city vehicles, equipment or property for personal use.
- p. Continuation of excessive absenteeism or continued sick leave misuse and abuse.
- q. ignoring, violating, or failing to observe rules of safety or refusal or failure to employ safe working practices, thereby jeopardizing personal safety, and the safety of others, or causing damage to or destruction of public or private property
- r. ignoring, violating or failing to observe rules of safety involving the use of personal protective equipment as outlined in the safety manual or loss prevention manual

C. Process for Serious Disciplinary Actions

If the Director, the Human Resources Director and the City Administrator determine that there are reasonable grounds for serious disciplinary action to be taken against an employee, the Director shall prepare a written notice informing the employee that serious disciplinary action is being considered against him, giving him the specific reasons and information related to the proposed action, and setting a date and time for the employee to meet and discuss the issue with the Director and Human Resources Director. Once the employee has been given the opportunity to present any further information he would like to have considered, either a lesser action or one of the following serious disciplinary actions may be taken.

(1) Dismissal

If the Director determines that there are reasonable grounds for dismissal, the Director shall prepare a written dismissal notice which shall state the specific reasons for dismissal with sufficient specific information to reasonably inform the employee of the reasons for dismissal. Such dismissal notice shall be coordinated with the Human Resources Director, approved by the City Administrator, and then served on the employee or mailed to the employee's most recent known address. A signed confirmation of delivery or mailing from the supervisor or Director shall be attached to a copy of the dismissal notice and filed with the Human Resources Director. All classified regular employees who are dismissed for cause may avail themselves of the appeal procedures of these Rules.

(2) Involuntary Demotion

- a. The Director may demote an employee for performance or disciplinary purposes. Written notice of the demotion shall be coordinated with the Human Resources Director, approved by the City Administrator, and then delivered to the employee on or before the effective date of the demotion. Confirmation of delivery from the supervisor or Director shall be attached to a copy of the demotion and filed with the Human Resources Director. An employee who is demoted to a lower class for which the maximum rate of pay is less than the current rate of pay in the higher class shall be paid at a rate which shall not exceed the maximum rate of the lower class, or exceed the former rate of pay. All classified regular employees may avail themselves of the appeal procedure.
- b. Demotion from Promotion: A promoted employee who fails to perform minimum requirements of the position during the probationary period in the new position may be demoted. No right of appeal shall exist in this case.

(3) Voluntary Demotion

- a. Upon written request of the employee, and with the consent of the Director(s) and the City Administrator, a voluntary demotion may be made to a lower class. If the position for which demotion is intended is in another department, input from both Directors shall be considered. No demotion shall be made to a position for which the employee does not possess the minimum qualifications.
- b. When an employee is voluntarily demoted the salary in the new position shall be established by the Director and the Human Resources Director, and approved by the City Administrator.

(4) Suspension Without Pay

- a. Non-exempt employees: The Director may suspend an employee without pay for disciplinary purposes. The duration of the unpaid suspension shall be agreed upon by the Director and the Human Resources Director, and approved by the City Administrator
- b. Exempt employees: In accordance with Part 541 of the Fair Labor Standards Act (FLSA), an exempt employee may be suspended without pay for disciplinary purposes as follows:
 - i. Unpaid suspensions may be imposed in good faith for infractions of workplace conduct rules, such as rules prohibiting sexual harassment, workplace violence, drug or alcohol use, or violations of state and federal laws. This provision refers to serious misconduct only and may be imposed pursuant to written policy applicable to all employees. Such disciplinary actions may be made in full day increments only.
 - ii. Unpaid suspensions may be imposed in good faith for infractions of safety rules of major significance, such as those related to the prevention of serious danger in the workplace or to other employees. Such disciplinary actions may be made in any amount of time.
 - iii. All other disciplinary suspensions without pay, such as performance or attendance related issues, may be made in full week increments only.
- c. Any suspension without pay shall be ordered in writing after prior coordination with the Human Resources Director and approval by the City Administrator. The order shall contain reasons and duration of the suspension. A copy shall be provided to the employee on or before the effective date of the suspension.

- d. All classified regular employees may avail themselves of the appeal procedure.

Section 3. Administrative Leave

The Director, with approval of the City Administrator, may place an employee on administrative leave with or without pay at any time for the purpose of investigating allegations against the employee which could result in disciplinary action. Any administrative leave shall be ordered in writing after coordination with the Human Resources Director. Administrative leave with pay shall not be considered a disciplinary action and shall not have any appeal rights. After the investigation has been completed, for which the employee was placed on administrative leave, the Director, after coordination with the Human Resources Director, and with the approval of the City Administrator, shall dismiss, demote, suspend without pay or reinstate the employee without prejudice. If the employee is dismissed, demoted or suspended without pay, such action will follow the procedures established in these Rules. If the employee is reinstated without prejudice, all reference to the administrative leave shall be removed from the employee's personnel file.

Section 4. Performance Related Corrective Actions

Each employee of the City shall be evaluated at least annually. Either the annual evaluation or any other special evaluation may be used to invoke a performance based corrective action.

A. Types of Evaluations Used for Corrective Probation

- (1) Annual Evaluation: When an annual evaluation is conducted and the Director determines that such employee's **overall** performance needs improvement with respect to any or all of the duties, tasks, and/or responsibilities set forth in the employee's classification specifications, a corrective probation may be invoked.
- (2) Special Evaluation: At any time during the year when a Director determines that an employee's performance needs improvement with respect to any or all of the duties, tasks, and/or responsibilities set forth in the employee's classification specifications, a special evaluation may be conducted and a corrective probation may be invoked.
- (3) All evaluations shall be performed pursuant to the adopted standards contained within the employee's classification specification.
- (4) An employee receiving a ranking of "needs improvement" on any evaluation shall be informed in writing of the reasons for the ranking and the areas of improvement needed and shall be given a quarterly period of time to improve

his performance to a satisfactory level. The employee shall be considered to be on a probationary status during the corrective probation.

B. Corrective Probation

- (1) Corrective probation shall be invoked in up to two quarterly intervals, which periods shall be considered an opportunity for the employee to improve his/her performance to an acceptable level. The Director shall identify in writing the reasons for the probation and the areas of improvement necessary to improve the employee's performance. Once an employee has been placed on Corrective Probation, they will not be eligible for a yearly increase that appraisal period, even if they successfully complete their Corrective Probation period.
- (2) The employee shall be given an evaluation on the completion of each quarterly probationary period. In the event that an employee's performance has not improved to a satisfactory level, the Director, with the concurrence of the Human Resources Director, may take the appropriate action of:
 - a. demotion to a position of lesser responsibilities within the expected abilities of the employee;
 - b. extending the corrective probationary period for another quarterly time period; or
 - c. dismissal of the services of the employee.
- (3) If, at any point during the corrective probationary period, the Director determines that no improvement has been made, or that other disciplinary action becomes necessary, the Director may, with the approval of the Human Resources Director and City Administrator, immediately impose one of the appropriate actions as outlined by this section.

Section 5. Employee Right to Grieve or Appeal Disciplinary or Corrective Action

Classified employees who have completed their initial probationary period are entitled to avail themselves of the grievance or appeal process as specified in other sections of the Human Resources Articles and Administrative Rules. Evaluations utilized for performance related corrective actions and any decision to invoke probation shall be subject to the grievance procedure only to the extent that factual information on the evaluation can be shown to be incorrect. Decisions regarding corrective probationary status, based on evaluations, shall not be subject to grievance.

The above Administrative Rule is hereby established and adopted in accordance with the Human Resources Manual of the City of Branson, Missouri.

William J. Malinen, City Administrator

Date

Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning what constitutes compensable time under the [FLSA](#). The Act requires that employees must receive at least the [minimum wage](#) and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the [overtime](#) hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

Definition of "Employ"

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

Application of Principles

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

Sleeping Time and Certain Other Activities: An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home to Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in a Day's Work: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

Typical Problems

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243). This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)

MEMORANDUM

TO: Human Resources Committee Members
FROM: Jan Fischer, Human Resources Director
DATE: December 13, 2016
SUBJECT: 2017 Human Resources Committee Meeting Dates

The Human Resources Committee will meet the following dates at 9:30am in the Fishbowl for the 2017 Calendar year:

January 25, 2017
February 22, 2017
March 22, 2017
April 19, 2017
May 24, 2017
June 28, 2017
July 26, 2017
August 23, 2017
September 27, 2017
October 25, 2017
November 22, 2017
December 27, 2017

One of our Committee members has informed Human Resources that they will not be able to attend the February 22, 2017 meeting and has requested a change in the schedule. An email was sent out to the Committee per their request for us to change the February date. The following times were then selected:

February 21, 2017 at 1pm
February 23, 2017 at 1pm

Human Resources has not heard from all members regarding this situation and is hoping to have a consensus from the group on which time works best:

February 21, 2017 at 1pm
February 22, 2017 at 9:30am (Normal scheduled time)
February 23, 2017 at 1pm