



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
[www.appleton.org](http://www.appleton.org)

## Meeting Agenda - Final

### Human Resources & Information Technology Committee

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Wednesday, July 11, 2018

6:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting

[18-0991](#) Minutes from 6-13-18

**Attachments:** [Minutes 6-13-18.pdf](#)

#### 4. Public Hearings/Apearances

#### 5. Action Items

[18-0989](#) Request to update the H.R. department table of organization to move the Risk Manager position to report directly to the Deputy Director.

**Attachments:** [Human Resources TO change.pdf](#)

[18-0988](#) Request to update Recruitment Selection Policy.

**Attachments:** [Recruitment and Selection 7-1-18.pdf](#)

#### 6. Information Items

[18-0997](#) Information Technology update:  
SAN Project  
ERP  
Office 365  
Blue Ramp and Jones Park Fiber  
Budget Update  
CAD (Spillman Project)

[18-0985](#) Changes to the Nursing Mothers policy.

**Attachments:** [Nursing Mothers policy 2018.pdf](#)

[18-0986](#)

Changes to the FLSA policy.

**Attachments:** [FLSA Policy 2018.pdf](#)

[18-0987](#)

Changes to FMLA policy.

**Attachments:** [Family Medical Leave Act revised 5 2018-FMLA a.pdf](#)

[18-0992](#)

Recruitment Status Report 7-6-18

**Attachments:** [RSR thru 7-5-18.pdf](#)

## 7. Adjournment

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*

*Questions on agenda, contact Director Matz at 920-832-6426.*



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
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## Meeting Minutes Human Resources & Information Technology Committee

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Wednesday, June 13, 2018

6:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

2. Roll call of membership

**Present:** 3 - Konetzke, Baker and Raasch

**Excused:** 2 - Spears and Baranowski

3. Approval of minutes from previous meeting

[18-0853](#)

Minutes from 5/9/18

**Attachments:** [Minutes 5-9-18.pdf](#)

**Baker moved, seconded by Raasch, that the minutes be approved. Roll Call.  
Motion carried by the following vote:**

**Aye:** 3 - Konetzke, Baker and Raasch

**Excused:** 2 - Spears and Baranowski

4. Public Hearings/Appearances

5. Action Items

[18-0854](#)

Request approval to remove the Crossing Guards from the police department's table of organization if All City Management Services is contracted to manage the City of Appleton Crossing Guard program.

**Attachments:** [Shared Services Agreement - HR-IT Committee.pdf](#)  
[Summary of ACMS.pdf](#)  
[CG - SRO shared services agreement.pdf](#)

**Baker moved, seconded by Raasch, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 3 - Konetzke, Baker and Raasch

**Excused:** 2 - Spears and Baranowski

[18-0872](#)

Request to approve overhire for Managerial Accounting Manager in DPW

**Attachments:** [DPW overhire request 6-1-18.pdf](#)

**Baker moved, seconded by Raasch, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 3 - Konetzke, Baker and Raasch

**Excused:** 2 - Spears and Baranowski

## 6. Information Items

[18-0857](#)

Changes to the Respirator Protection Policy.

**Attachments:** [Respirator Protection 2018.pdf](#)

**This Presentation was received and filed**

[18-0859](#)

Changes to the Reference, Backgrounds & Polygraph Policy

**Attachments:** [References Backgrounds Polygraphs 2018.pdf](#)

**This Presentation was received and filed**

[18-0860](#)

Changes to the Lead Policy

**Attachments:** [Lead Policy 2018.pdf](#)

**This Presentation was received and filed**

[18-0861](#)

Recruitment Status Report 6/8/18

**Attachments:** [RSR thru 6-7-18.pdf](#)

**This Presentation was received and filed**

## 7. Adjournment

**Baker moved, seconded by Raasch, that the meeting adjourn be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 3 - Konetzke, Baker and Raasch

**Excused:** 2 - Spears and Baranowski

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# Human Resources

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## Memorandum

To: Chairperson Konetzke and Members of the Human Resources Committee

From: Sandy Matz, Human Resources Director 

CC: Common Council

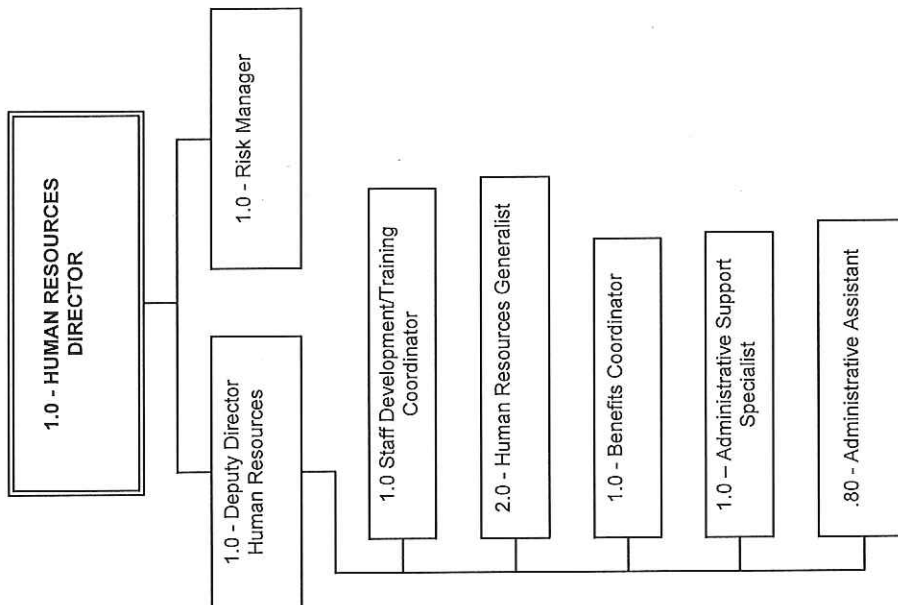
Request authorization to modify the Human Resources Department's Table of Organization by having the Risk Manager report to the Deputy Director instead of the Director.

I am requesting authorization to modify the current table of organization within Human Resources. Currently, the Risk Manager reports directly to the Director. I am proposing to have the Risk Manager report to the Deputy Director.

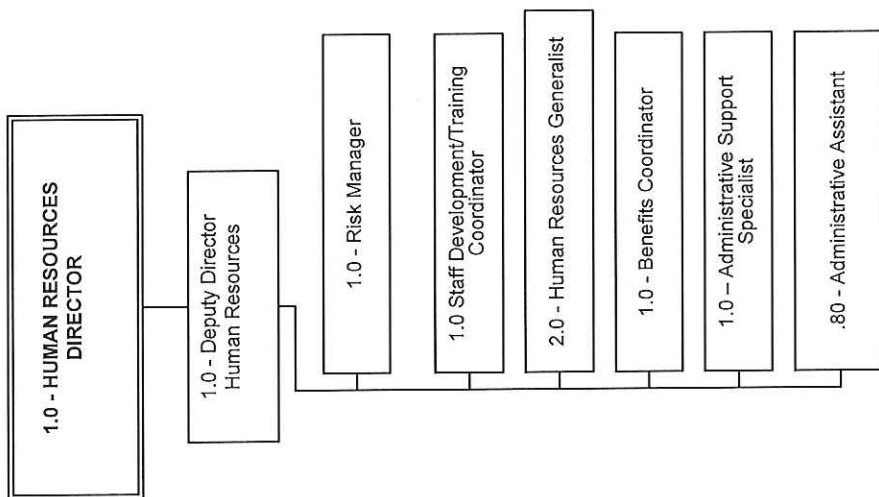
We do not anticipate any financial impacts or changes to position placements within the compensation plan as a result of the proposed realignment.

We believe that this realignment will improve work flow and will improve integration with the rest of the human resources staff. We are continuing to evaluate the flow of work, the division of responsibilities and the cross training of each position within the department so we are prepared to meet our succession planning goals. We have had two retirements within the last two months and anticipate another within the next year. Based on our succession planning, we anticipate that over half of the staff will turn over within the next five years. This is a challenging time for us with staff transitions while also an opportunity to re-look at how we can best meet the needs of our customers and align responsibilities that best benefit an employee during their life cycle with the City.

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1/1/2015



<b>CITY OF APPLETON POLICY</b>	<b>TITLE: RECRUITMENT AND SELECTION</b>	
<b>ISSUE DATE:</b> November 18, 1999	<b>LAST UPDATE:</b> October 1999 September 10, 2003 October 30, 2006 March 2011 May 2018	<b>SECTION:</b> Human Resources
<b>POLICY SOURCE:</b> Human Resources Department	<b>AUDIENCE:</b> All Employees with Hiring Responsibilities	<b>TOTAL PAGES:</b> 5
Reviewed by Attorney's Office Date: October 21, 1999 September 12, 2003 March 10, 2011 March 19, 2018	Committee Approval Date: November 15, 1999 September 24, 2003 February 28, 2007 April 27, 2011 May 9, 2018	Council Approval Date: November 17, 1999 October 1, 2003 March 7, 2007 May 4, 2011 May 16, 2018

#### I. PURPOSE

To outline the process of recruitment and selection of applicants to fill open positions with the City of Appleton.

#### II. POLICY

The City of Appleton will recruit and select the best qualified persons for positions with the City. The Human Resources Department, under the guidance of the Human Resources Director, is responsible for developing and conducting an active recruitment and selection program designed to meet current and projected City employment needs. The procedure will be consistent with the City Affirmative Action Program and will comply with all Equal Employment Opportunity guidelines.

#### III. DISCUSSION

The hiring process is designed to ensure that the City of Appleton hires the best candidate for the job. The City of Appleton uses established, objective hiring criteria to ensure equal and unbiased treatment of all applicants.

These guidelines complement, but do not supersede, the statutory authority of the Library Board or the Police and Fire Commission.

#### IV. DEFINITIONS

- A. Request To Fill Form: A form that outlines the department, position, pay rate, justification for the position, impact of not filling the position, and alternate ways to complete the work.
- B. Posting: A formal announcement that a position is vacant. Postings may be internal or external. The decision of where to announce a position may involve many factors such as: the urgency to fill a position, the target audience, and any union contract obligations.



- C. Assessment Center: A series of exercises, which simulate “a day in the life of.” These exercises generate observable behavior, which can be recorded and evaluated by trained assessors. Behaviors can be utilized to predict successful job performance or evaluate potential future job performance.
- D. Vacant Position: An authorized position on the department’s table of organization that becomes available by a voluntary or involuntary termination .
- E. Open Positions Listing: A predefined list of free community resources in which to announce a vacant position.
- F. Job Interest Cards: This is an on-line process in which applicants can express interest for future position vacancies. Once completed, applicants will receive an e-mail, for up to 12 months, of vacancies which match the employment category(s) they expressed an interest in.
- G. Equal Employment Opportunity Data: Voluntary data (gender, racial group, veteran status, and disability) collected during the application process. This information is not part of the application for employment and remains separate from the application.
- H. Recruitment Status Report: A summary report, which is updated weekly, that outlines the status of all City open positions.
- I. Applicant Database: A database that tracks applicant information and their disposition in the hiring process.
- J. Application Form: An on-line form to be completed by the applicant. This form gathers data regarding the applicant, including address, phone number, education, work experience, and applicable volunteer experience.
- K. Eligibility List: A list of candidates who went through an interview process but were not chosen and remain eligible if the position becomes vacant again. This list may include ranking of candidates on the list and will have an expiration date.

## V. PROCEDURES

- A. Filling of a Vacant Position  
To fill a vacant position, the hiring department must submit a completed Request to Fill form, updated job description, and updated job task analysis to the department designated Human Resources Generalist. ~~A review of the request will be made by the Human Resources Director, the Mayor, and the Human Resources/IT Committee Chair. Once approved, Once approved by H.R.,~~ the process will move to the steps outlined below:
  - 1. Union Internal Posting  
The department shall notify the designated Human Resources Generalist to initiate the posting process as outlined in the collective bargaining agreements. If no qualified internal applicants post to the position, the process will move to an External Posting as stated in 3 below.
  - 2. Non-represented Internal Postings  
The department shall notify the Human Resources Department to initiate a posting announcement to either be announced only within the department where the vacancy exists; or to be announced to all City departments.

3. External Postings
- The department shall notify the Human Resources Department to initiate the recruitment process. This process will involve the following:
- a. Job Announcement  
The Human Resources Department shall issue an Open Positions Listing of job announcements to publicize vacancies as deemed appropriate. This will be coordinated with the affected department to ensure the most efficient and cost effective means of advertising are included.
  - b. Application Forms  
All applications for employment must be submitted through the on-line application form process. Resumes and supporting documentation will be accepted as a supplement to the application, but an application must be completed for consideration. Applications will only be accepted when a position is available.
  - c. The designated Human Resources Generalist (or representative), along with the department representative(s) involved with the hiring, will screen the applications based on the job requirements as outlined in the job description.
  - d. Applicants whose applications are chosen from the initial screening may be invited to participate in telephone or Skype interviews, testing, an assessment center or other selection process (depending on the position) at the discretion of the hiring and Human Resources Departments. Applicants not chosen from the initial screening will receive a regret response.
  - e. Those individuals who successfully complete the initial screening may be scheduled for panel interviews. The interview will be coordinated by the Human Resources Department.
  - f. Members of the interview panel will make a recommendation to the Human Resources Generalist as to who they would like to hire. If consensus cannot be reached, then the Human Resources Generalist will consult with the Human Resources Director. If consensus is reached, the Human Resources Generalist will obtain the following checks prior to making the final job offer:
    1. At least two positive reference checks from previous employers: (if two positive checks cannot be obtained the Human Resources Representative must consult with the hiring supervisor and the Human Resources Director).
    2. Appropriate background checks, physicals, drug screens, psychological testing, etc.
  - g. The Human Resources Generalist will make the job offer contingent upon appropriate background information using the existing pay structure. Human Resources will consult with the hiring supervisor to determine appropriate pay level.
  - h. Human Resources will develop an offer letter and coordinate with the hiring department a start date. The new employee on-boarding process will be initiated at this point.

- i. Human Resources shall conduct an orientation process with all new employees.
  - j. Human Resources will provide the hiring supervisor with a checklist of items that should be shown or explained to the new employee.
- 4. Employment Agencies  
Outside agencies may be used to recruit regular and/or temporary employees. The hiring supervisor must consult with his/her department's designated Human Resources Generalist prior to using the outside agency.
- 5. Internal Promotions  
If the successful candidate is an existing employee, the original date of hire will be used for the purposes of benefits. The salary will be determined based on skills and experience and in accordance with the Salary Administration Policy and/or with the collective bargaining agreement.
- 6. Eligibility Lists  
Eligibility lists may be established and applicants will be informed of the expiration of the list.
- 7. Testing and Selection  
The selection process shall maximize reliability, objectivity and validity through a practical and job-related assessment of applicant attributes necessary for successful job performance and career potential. The selection process shall also be balanced to provide promotional opportunities as well as open competitive opportunities at various levels of City employment.
  - a. Selection Tools – The Human Resources Director shall be responsible for determining when formal selection tools will be used to screen applicants for job vacancies, except for those positions that fall under jurisdiction of the Police and Fire Commission (Wis. Statute 62.13) and the Library Board (Wis. Statute 43.58(4)). Such tools may include, but need not be limited to, a review of training and experience, work sample and performance tests, practical written test, assessment center, interviews, physical fitness examinations, and background reference inquiries. In the development of selection tools, the Human Resources Director may confer with the Department Director of the hiring department or others familiar with the knowledge, skills and abilities required in order to determine the specific devices to best measure these factors.
  - b. Security – Formal selection materials shall be maintained and administered only by the Human Resources Department. Every precaution shall be exercised by all persons participating in the development and maintenance of materials to ensure a high level of integrity and security.
  - c. Notification of Applicants – Each person competing in the selection process shall be given written notice of his/her status within a reasonable time of the completion of the process.
  - d. Confidentiality – The City will protect applicant names, scores, and process information to its fullest ability under the law.

8. **Part-time (non-benefitted) and Seasonal Employees**  
When it is determined to be in the best interest of the City of Appleton, part-time (non-benefitted), seasonal, limited term or temporary employees may be hired as budgeted. Such employees shall not be eligible to receive City of Appleton fringe benefits unless specifically provided for elsewhere in policy ( refer to the Employee Status policy for more information).
9. **Limited Term Appointments**
  - a. **Emergency Appointments** – Whenever there is an urgent need to fill a vacancy the Human Resources Director may authorize filling the vacancy by emergency appointment until proper recruitment can take place.
  - b. **Temporary Appointments** – The Human Resources Director may authorize the appointment of a qualified individual on a temporary basis when the need exists. Such appointments shall not exceed 1,000 hours in a 12-month period without prior authorization by the Human Resources Director. All departments shall arrange for their temporary manpower needs by calling their Human Resources Generalist. The following points apply when temporary staff are needed:
    1. The Department in need must have sufficient money budgeted to cover the cost of the temporary employee over the anticipated period of need.
    2. Notification shall be given to the Human Resources Department when temporary staffing is scheduled.
  - c. **Persons Hired Under Federal or State Manpower Programs** - No person shall be hired under Federal or State Manpower programs without prior approval of the Human Resources Director. Persons employed under such programs are considered limited term employees and are not considered regular City of Appleton employees unless specific action is taken to appoint such employee to a regular City of Appleton position after he/she has been duly certified as eligible for such employment by the Human Resources Director.
  - d. No department shall employ or use volunteers, interns, seasonal employees, temporary employees or co-op students, or participate in other wage sharing programs without prior discussion/notification of the Human Resources Department. If such position/program is authorized, the department will coordinate the employment conditions, offer letter, approvals, paperwork, and training requirements with the Human Resources Department.
10. **Applicant Travel Expenses**  
With the exception of Director level positions, all applicants invited to participate in the City of Appleton selection process will do so at their own expense, unless approval by the Department Director and the Human Resources Director. The City of Appleton may elect to reimburse an applicant for reasonable expenses incurred, including travel, meals and overnight accommodations as deemed appropriate by the Human Resources Director.

<b>CITY OF APPLETON PERSONNEL POLICIES</b>	<b>TITLE: NURSING MOTHERS</b>	
ISSUE DATE: November 2015	LAST UPDATE:	SECTION: Human Resources
POLICY SOURCE: Human Resources Department	AUDIENCE: All employees, <u>Alderpersons &amp; Visitors on City Business</u>	TOTAL PAGES: 2
Reviewed by Legal Services Date: December 2015	Committee Approval Date: December 7, 2015	Council Approval Date: December 16, 2015

## I. PURPOSE

Based on well documented health advantages of breastfeeding for infants and mothers, the City of Appleton would like to promote a culture of breastfeeding support within the workplace.

## II. POLICY

The City of Appleton will provide a sufficient space shielded from view and free from any intrusion from co-workers and the public to enable breastfeeding employees to express their milk during work hours.

## III. DISCUSSION

Employees who wish to express milk during the working hours shall keep their supervisor informed of their needs so that appropriate accommodations can be made to satisfy the need of the employee and the department. A ~~Staff Lactation~~ Nursing Mothers Room has been established on the 6<sup>th</sup> Floor of City Hall.

Additionally, ~~The~~ Library has a Comfort Room available in the Children's Department located in the Library. In other locations where there are no dedicated ~~lactation~~ Nursing Mothers rooms, the employee should work with their supervisor and Human Resources to determine appropriate accommodations.

## IV. PROCEDURE

### A. EMPLOYEE RESPONSIBILITIES

- (1) **Communication to Supervisor:** It is the employee's responsibility to initiate this communication and clearly discuss her needs with her supervisor.
- (2) **Maintenance of Milk Expression Areas:** Breastfeeding employees are responsible for keeping the Nursing Mothers Room ~~milk expression areas~~ clean ~~as well as the general lactation room,~~ by using the supplied anti-microbial wipes to clean the surfaces they utilize to pump. This will ensure it is clean for the next user.
- (3) **Breastfeeding Equipment:** The employee will be responsible to purchase their own breast pump equipment. Employees covered under the City health insurance should contact the provider to learn about coverage for the breast pump.

- (4) **Milk Storage (Employee's only):** When using the shared fridge in the Nursing Mothers Room ~~lactation R~~oom, the employee should label all milk expressed with their name and date collected so it is not inadvertently confused with another employee's milk.
- (5) **Break time to Express Milk:** Employees shall use the ~~Staff Lactation~~ Nursing Mothers Room Outlook Calendar found under "Rooms" on the calendar for making an appointment. to schedule milk expression times that are most convenient or best meet their needs.
- (6) **City Hall Card Access:** Employees who wish to use the City Hall Nursing Mothers Room shall be responsible to ensure they have the needed card access with appropriate hours. Contact Human Resources to ensure their identification card will have access to the room at the appropriate times.

## **B. EMPLOYER RESPONSIBILITIES**

- (1) **Milk Expression Breaks:** In accordance with the Fair Labor Standards Act (FLSA), the City of Appleton will provide nursing mothers reasonable break time each time the employee needs to express milk for up to one year after the birth of a child. Lactation times shall be established for each employee based on her work schedule and if possible concurrently with any break time already provided. Any time beyond the regular break time is unpaid and should be determined between the employee and the employee's supervisor.
- (2) **Place to Express Milk:** In accordance with the Fair Labor Standards Act (FLSA), the City of Appleton will provide nursing mothers with a private room, an electrical outlet, fridge, comfortable seating, appropriate signage to identify occupied and the ability to lock the door, to allow for employees to breastfeed or express milk with privacy. Employees who prefer, may also breastfeed or express milk in their own private office, or in a comfortable location agreed upon in consultation with the employee's supervisor and Human Resources.
- (3) **Notification to Employees:** The City of Appleton shall notify employees of this policy when receiving Family and Medical Leave Paperwork. This policy will also become part of the City of Appleton Employee Policy Manual and be posted on the City of Appleton Web Page.
- (4) **Supervisor:** Shall be responsible for reviewing this policy and help facilitate each employee's infant feeding goals within this policy.

## **C. VISITOR USE**

**(1) Visitors on city business: Visitors on City business may use the Nursing Mothers Room on the 6<sup>th</sup> floor of City Hall as needed. Visitors should arrange with the City employee hosting the City business they are attending, to make arrangements to**

schedule use of the room.

(2) Assisting your visitor:

a) Ask your visitor what time the Nursing Mothers room will be needed.

b) Reserve the Nursing Mothers Room using the Outlook calendar under Rooms/Nursing Mothers room for a time, up to 30 minutes.

c) Escort your visitor to the Nursing Mothers Room.

**Reference: Wisconsin State Statute 253.165 and United States Department of Labor, Wage and Hour Division. Section 7® of the Fair Labor Standards Act**

<b>CITY OF APPLETON POLICY</b>	<b>TITLE: FAIR LABOR STANDARDS ACT</b>	
REVIEW DATE: December 2006 August 2009	LAST UPDATE: August 2009 August 2015	SECTION: Human Resources
POLICY SOURCE: Human Resources Department	AUDIENCE: All Employees	TOTAL PAGES: 4
Reviewed by Legal Services Date: September 2004 February 2005 August 2009 August 2015 December 2015	Committee Approval Date: October 13, 2004 September 23, 2009 August 24, 2015 December 7, 2015	Council Approval Date: October 20, 2004 October 21, 2009 September 24, 2015 December 16, 2015

### I. PURPOSE

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. The purpose of this policy is to apply the Fair Labor Standards Act (FLSA) to City of Appleton employees.

### II. POLICY

It is the policy of the City of Appleton to comply fully with the provisions of the FLSA as well as applicable state laws and City of Appleton Collective Bargaining Agreements. Questions regarding this policy can be directed towards the employees supervisor, Human Resources, or the City Legal Services department. Failure to follow this policy will result in discipline up to and including discharge of employment.

### III. PROCEDURES

#### A. Covered Employees

The FLSA identifies two types of covered employees: exempt and non-exempt. The employee's duties, responsibilities, and salary determine whether or not an employee is considered exempt or non-exempt under the FLSA.

1. Designation of exempt or non-exempt status is the responsibility of the Human Resources Department. Human Resources and/or the City's compensation consultant will review the positions based on the actual work responsibilities and salary assigned to each position.
2. Employees who are covered by the Wage and Hour provisions of FLSA and are eligible for overtime after 40 hours worked in a work week are considered FLSA non-exempt employees.
3. Employees exempted by the Wage and Hour provisions of FLSA must meet certain category criteria as stated in the regulations. FLSA exempts some employees from its overtime pay and minimum wage provisions and others from the overtime pay provisions if their work assignments fall into one of the following categories: executive, professional, outside sales, administrative, and certain skilled computer professionals. Also certain seasonal recreational



employees can be considered exempt from specific provisions. Exempt employees are expected to put in those hours necessary to complete their job and are not eligible for overtime.

B. Non-covered Employees

Non-covered employees include elected officials and their personal staff, policy-making appointees, legal advisors, legislative employees, volunteers, independent contractors, prisoners and certain trainees.

C. Work Period

1. The standard FLSA work period is a fixed period of seven (7) consecutive calendar days. Note: Fire Protection and Law Enforcement employees may have a fixed work period of up to 28 calendar days.
2. The work period defines the time of day and day of the week when the employee's work period begins and ends.
3. An established work period may be changed if the change is intended to be permanent and not for the purpose of avoiding the accrual of FLSA overtime.

D. Time Worked

1. Time worked includes all time non-exempt employees are required to be on duty at their prescribed work places and all time during which they are permitted to work.
  - a. Non-exempt employees will be compensated for all time they are required or asked to work which supervisors know or have reason to know they are working.
  - b. Non-exempt employees who work without authorization are subject to disciplinary action, up to and including discharge.
  - c. Non-exempt employees are required to report all time worked and are required to accurately reflect this on their timecard or in the City's time system. Failure to correctly record or falsification of actual work time is subject to disciplinary action, up to and including discharge.
  - d. Supervisors are not to ignore unauthorized work that non-exempt employees do on their own time, ~~unless de minimis (8 minutes or less)~~. This is a violation of policy and illegal under FLSA. Supervisors who know or have reason to know that non-exempt employees are performing unauthorized work on their own time should address the situation by ensuring that the employee's unauthorized time is recorded in the City's payroll system and advising the employee that the unauthorized time will be compensated; and, that because the work was not previously authorized the employee is subject to disciplinary action as determined by the supervisor.
  - e. The supervisor who signs an employee's time card or approves his/her time record must have personal knowledge of the hours worked by the employee and may not ask an employee to record more or fewer hours than were actually worked. Such an action is not only a violation of policy but is also illegal under FLSA and may subject the employee and or supervisor to disciplinary action up to and including discharge. Any illegal act may also result in legal action.
2. Exempt employees are paid on a salary basis and are not eligible for overtime. Time records for exempt employees should still reflect an accurate accounting of time worked and paid time off.

- E. Meal Periods - Although meal periods are not required by FLSA, it is the policy of the City of Appleton that meal periods are provided to employees. If meal periods are not provided, there must be specific work-related reasons or departmental needs for not allowing the meal period. (Refer to the applicable Collective Bargaining Agreements and departmental policies for represented employees and to the Conditions of Employment Policy for non-represented employees).
- F. Break Periods - Break periods are not required by FLSA. However, up to two 15-minute break periods per day may be authorized for City employees as per the applicable Collective Bargaining Agreement, the Conditions Of Employment Policy for non-represented employees, or through department Work Rules.
- G. Meetings/Training – Time spent by non-exempt employees attending meetings, training, and similar activities must be counted as time worked unless ALL of the following criteria are met:
1. The attendance is outside of the non-exempt employees' regular working hours;
  2. The attendance is voluntary;
  3. The meeting, training, or similar activity is not directly related to the non-exempt employees' positions; and
  4. The non-exempt employees perform no work related to their positions while in attendance.
- Lunch breaks at training are not considered time worked for non-exempt employees, provided the employee is free to leave and there is no formal instruction during the lunch period.
- H. Travel
1. Normal travel, for a non-exempt employee, from home to work and return to home is not work time. This is true whether the non-exempt employee has a fixed workplace or works at different locations.
  2. Travel to work assignments at sites within reasonable commuting distance of the non-exempt employee's primary work site is considered in the "home to work" category and is not work time. If, however, a non-exempt employee is required to stop by the primary work site for instructions or to pick up materials, the travel from the primary work site to the work assignment will be counted as time worked.
  3. Travel between a non-exempt employee's normal work site and another place of assignment, or travel between one assignment and another during the work day, is considered time worked.
  4. Travel associated with a one-day assignment at a different location will be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee's normal travel between home and work.
  5. FLSA exempt employees are not entitled to any FLSA compensation for travel time either outside of, or in addition to, their normal hours of work.
- I. Overtime
1. If overtime occurs (non-exempt employee is to receive time and a half compensation or FLSA compensatory time at the same rate for the amount of overtime worked. All authorized paid leaves with the exception of PTO Sick and Sick shall be considered as time worked for the purpose of computing overtime.

2. Non-exempt employees must receive prior approval from their supervisor to work overtime.
  3. Non-exempt fire protection employees, who have an assigned work period of 28 calendar days, are entitled to overtime compensation after working 212 hours in the work period.
  4. Non-exempt law enforcement employees, who have an assigned work period of 28 calendar days, are entitled to overtime compensation after working 171 hours in the work period.
  5. FLSA exempt employees are not entitled to overtime compensation or FLSA compensatory time for time worked over 40 hours in a work period unless specifically provided for in another policy.
- J. Exempt employees can be subject to an unpaid disciplinary suspension of a full workweek or one or more full days for violations of an employer's workplace or conduct rules, as defined in the regulations, without destroying the exempt status.
- K. Non-exempt employees can be subject to unpaid disciplinary suspensions of one or more full days for violations of an employer's workplace or conduct rules, as defined in the regulations.
- L. Child Labor Laws – The type of work that may be performed by employees under the age of 18 is restricted by federal and state laws. Please refer to the Federal and State Posting in each worksite for more detail.

#### IV. COMPLAINT PROCEDURE

Any employee who feels he/she has had improper pay deductions or has not been paid appropriately should immediately file a written complaint with the Human Resources Department that includes specific information supporting the basis of the complaint of an inappropriate payment or improper deduction. The Human Resources Department will review the situation and determine if an improper deduction has been made and, if so, work with the employee to resolve the situation and, if applicable, ensure proper reimbursement is made within a reasonable period of time and will take steps to prevent a similar inappropriate payment or improper deduction from occurring in the future.

<b>CITY OF APPLETON POLICY</b>	<b>TITLE: FMLA (Family Medical Leave Act)</b>	
<b>ISSUE DATE:</b> (Day after Council)	<b>LAST UPDATE:</b> February 25, 2003 September 23, 2004 (pg. 5) August 30, 2006 (pg. 2) April 2008 (reference to Military Family Leave) October 2009, August 2010, October 2013, July 2015, February 2018	<b>SECTION:</b> HR
<b>POLICY SOURCE:</b> Human Resources Department	<b>AUDIENCE:</b> All City Employees	<b>TOTAL PAGES:</b> 10
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## I. PURPOSE

To outline the conditions that permit an employee to request time off for a period as prescribed by law with no loss of benefits or accumulated service if the employee returns to work. This policy will also serve to document employee rights and responsibilities.

## II. POLICY

It is the policy of the City of Appleton to comply with all applicable State and Federal laws concerning military family leave, family, medical or caretaking leave.

This policy applies only to leave designated under State or Federal law. Leave designated under this policy may overlap or duplicate leave available under collective bargaining agreements or other personnel policies. Sick leave, vacation and leave of absence provisions under any collective bargaining agreements remain in effect.

Leave provided by the City which is taken for the same reasons as leave covered by the FMLA is not in addition to leave provided under the FMLA. If leave qualifies for family or medical leave under either or both the Federal and State laws, the leave used counts against the employee's entitlement under both State and Federal FMLA concurrently. Leave covered by the FMLA will be deducted from the entitlement under the FMLA.

Both State and Federal Family and Medical Leave entitlement will be counted based on a calendar year (January-December).

In order for employees to be eligible for leave under the Federal Family Medical Leave provisions, they must have been employed by the City for at least 12 months (whether consecutive or not) and must have worked for at least 1250 hours during the 12 month period immediately preceding the commencement of the requested leave. (Periods of employment preceding a 7-year break in service shall not count toward the 12 months.

- a. Any absence from work due to military service covered under the Uniformed Services Employment and Reemployment Rights Act (USERRA) must be counted toward the employee's 12 month employment period when determining FLMA eligibility.
- b. Time spent on paid or unpaid leave does not count in determining the 1,250 hour eligibility.

In order for employees to be eligible for leave under the Wisconsin Family Medical Leave provisions, they must have been employed by the City for at least 52 consecutive weeks, and must have been paid for at least 1000 hours during the preceding 52-week period. If an employee is maintained on the payroll for any part of the week, the week counts as a week of employment.

Wisconsin law allows employees:

1. Up to 6 weeks of family leave for the birth or adoption of a child. This leave must commence within 16 weeks of the birth or adoption of a child. If nonconsecutive leave is taken, the last increment of the nonconsecutive leave must commence no later than 16 weeks after the birth or adoption date.
2. Up to 2 weeks of family leave to care for a child, legal ward, spouse, ~~domestic partner~~ or parent (including parent-in-laws ~~and parents of a domestic partner~~) suffering from a serious health condition.
3. Up to 2 weeks of medical leave for an employee to care for his/her own serious health condition which renders him/her unable to perform the essential functions of the job.

Federal law allows employees a total of 12 weeks for:

1. Family leave for the birth of an employee's child or because of the placement of a child with the employee for adoption or foster care.
2. Family leave to care for a child, legal ward, spouse, parent, or covered servicemember suffering from a serious health condition.
3. Medical leave for an employee to care for their own serious health condition which renders them unable to perform the essential functions of the job.
4. Exigency leave due to a spouse, child or parent who is on active military duty, or has been notified of an impending call to active duty status in the National Guard or Reserves, in support of a contingency operation. Also included are servicemembers in the regular armed forces who are on active duty in a foreign country or are called to active duty in a foreign country.
  - a. Eligible employees may take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty.

- b. The amount of time an eligible employee may take for Rest and Recuperation qualifying exigency leave is expanded to a maximum of 15 calendar days.

Federal law also allows employees a total of 26 weeks of leave in a single 12-month period for:

1. Caring for a spouse, son, daughter, parent or next of kin who is a covered servicemember/veteran recovering from a serious illness or injury sustained in the line of duty.
  - a. A covered veteran is defined as an individual who was discharged or released at any time during the five (5) year period prior to the first date the eligible employee takes FMLA to care for the covered veteran. A dishonorable discharge disqualifies the veteran from coverage.

### III. DISCUSSION

This policy provides an introduction to the rights and provisions of the family and medical leave laws. Specific questions an employee may have about this law should be directed to the City Human Resources Department.

### IV. DEFINITIONS

- A. **FMLA:** Family and Medical Leave Act
- B. **Parent:** The biological parent of the employee, or an individual who stands or stood in loco parentis.
- C. **Son/Daughter (Federal FMLA definition):** A biological, adopted or foster child, a stepchild, a legal ward who is either under 18 years of age, or a child 18 years of age or older and incapable of self-care because of a physical or mental disability as defined by the Americans with Disabilities Act. (For the purposes of exigency and military leave a son/daughter is simply defined as a biological, adopted, foster child, or stepchild, without reference to age)
- D. **Son/daughter (State FMLA definition):** A biological, adopted or foster child, a step child, or legal ward.
- E. **In Loco Parentis:** An individual who stands in place of the parent, this may include day-to-day responsibilities to care for and/or financial support of a child. A biological or legal relationship is not necessary.
- F. **Registered Domestic Partners:**
  - a. Registered same-sex domestic partners must meet the following requirements:
    - ~~a.~~ b. Be at least 18 years old and competent to consent to the relationship
    - ~~b.~~ c. Not married or in a domestic partnership with anyone else
    - ~~c.~~ d. Reside together
    - ~~d.~~ e. Not related closer than second cousins
    - ~~e.~~ f. Be members of the same-sex

~~a.~~ Have registered their domestic partnership with the Register of Deeds in the county in which they res

- g. Have registered their domestic partnership with the Register of Deeds in the county in which they reside prior to April 1, 2018.

~~Unregistered same or opposite sex domestic partners must meet the following requirements:~~

- ~~d. Be at least 18 years old and competent to enter into a contract~~
- ~~e. Not married or in a domestic partnership with anyone else~~
- ~~f. Reside together~~
- ~~g. Not related in a way that would prohibit marriage under Wisconsin law~~
- ~~h. Consider themselves members of each other's immediate family~~
- ~~i. Agree to be responsible for each other's living expenses~~

G. **Spouse:** A husband or wife or registered domestic partner.

H. **Injured Servicemember:** A member of the Armed Forces, National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.

I. **Qualifying exigencies:** Include one or more of the following:

- a. Short notice deployment
- b. Military events and related activities
- c. Childcare and school activities
- d. Financial and legal arrangements
- e. Counseling
- f. Rest and recuperation
- g. Post-deployment activities and/or
- h. Such additional activities agreed to in advance by the Employer.

There are limits on the amount of leave available for a particular qualifying exigency and such limits may be less than 12 weeks.

J. **Next of Kin:** The nearest blood relative of the servicemember in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative.

K. **Active Duty:** Under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code. Section 101(a)(13)(B) of Title 10 cover a broad array of military assignments during a war or national emergency.

L. **Contingency Operation:** Any military operation or hostilities against an enemy of the United States or a broad array of military assignments during a war or national emergency, as designated by the U.S. Secretary of Defense.

M. **Outpatient Status:** The status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

N. **Temporary Disability Retired List:** Members of the Armed Forces who are not fit for duty but that may become fit for duty at a later time are placed on this list. This is not a permanent classification, rather the status of each person is reviewed periodically.

O. **Serious Health Condition:** Under **Wisconsin** FMLA, a serious health condition is defined as a disabling physical or mental illness, injury or impairment involving:

- a. Inpatient care in hospital, nursing home or hospice; or
- b. Outpatient care with continuing treatment or supervision by a health care provider.

**Serious Health Condition:** Under **Federal** FMLA, a serious health condition is defined as physical or mental illness, injury or impairment that involves:

- a. Inpatient care in a hospital, hospice or residential medical care facility; or
- b. Continuing treatment by a health care provider which includes:
  - i. A period of incapacity of more than three (3) full consecutive calendar days, and any subsequent treatment or period of incapacity that involves:
    - (A) treatment two or more times by a health care provider the first visit within 7 days, second visit within 30 days of the first day of incapacity, unless extenuating circumstances exist.
    - (B) treatment by a health care provider on at least one occasion within 7 days of the first day of incapacity that results in a regimen of continuing treatment (i.e., prescription medication or other treatment) which is under the supervision of a health care provider.
  - ii. Incapacity due to pregnancy or prenatal care.
  - iii. Incapacity or treatment for such incapacity due to chronic serious health condition. A chronic serious health condition is one which requires periodic visits, continues over an extended period of time and may cause episodes of incapacity. "Periodic" is defined as at least two (2) visits per year.
  - iv. Incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
  - v. Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days in the absence of medical intervention or treatment.

P. **Serious Injury or Illness for a Covered Veteran:** An injury or illness that was



incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:

- a. A continuation of a serious injury or illness that as incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank or rating; OR
- b. A physical or mental condition for which a covered veteran has received a VA Service Related Disability Rating (VASRD) or 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR
- c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
- d. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

## V. PROCEDURE

- A. **Employee's Request:** Employees requesting leave must complete FMLA forms and submit to the employee's supervisor at least 30 days before the need. The supervisor must forward the written request to the department head and Human Resources Department. If the 30-day notice is not possible, the employee will notify his/her supervisor as soon as reasonable and practical. This should be interpreted to mean within one to two working days of the employee learning of the need for leave.

In emergencies, if the leave request cannot be made by the employee in writing, the supervisor must fill out the leave request in writing and forward it to the department head and the Human Resources Department.

Employees who take medical leave should make reasonable efforts to schedule planned medical treatments so as not to unduly disrupt business operations.

Employees who return from an absence that they desire to be counted as FMLA must give notice within two days of returning to work. If notice is not timely, the employee may not assert FMLA protection.

Spouses employed by the City of Appleton are entitled to 12-week(s) each of leave, if the leave is taken:

- 1. For the birth of a son or daughter or to care for the child after birth;
- 2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement; or
- 3. To care for a parent with a serious health condition.
- 4. For exigency leave of a spouse, child or parent who is on active military duty, or has been notified of an impending call to active duty status in the National Guard or Reserves, in support of a contingency operation.

Spouses employed by the City of Appleton are entitled to 26-week(s) each of leave if the leave is taken for care for a covered servicemember recovering from a serious illness or injury sustained in the line of duty.

- B. **Employer Designation:** The City of Appleton will require completion of the FMLA forms when an employee misses more than three consecutive scheduled work days due to a qualifying FMLA event. If the leave is determined eligible, it will automatically be counted against the employee's FMLA entitlement.
- C. **Medical Certifications:** Prior to leave commencing, medical certifications will be required to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, parent or military family leave. All requests for family and medical leaves of absence due to illness must include sufficient medical certification from the physician stating:
1. The date on which the serious health condition began;
  2. The probable duration of the condition and;
  3. The appropriate medical facts that the health care provider knows about the condition.

For the employee's own medical leave, the certification must include a statement that the employee is unable to perform the functions of their position. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time that the employee is needed to provide care.

The employee will be responsible for obtaining these certifications from the health care provider. These forms are available from Human Resources and department Supervisors. Forms must be completed and returned no later than 15 days of receipt. If the employee does not obtain the certification from the health care provider within 15 days, the leave will be treated as other available paid leave or unpaid leave.

The City of Appleton Human Resources Department may directly contact the health care provider or other third-party to verify and clarify information contained in the certification. Employees are responsible for signing or obtaining any authorization necessary to permit the health care provider or other third-party to provide the City of Appleton with the required information.

**Military Certifications:** Prior to leave commencing, military certifications will be required to support a claim for leave. Certifications shall be in the form of military orders or discharge documents and shall identify who the leave is for.

- D. **Status while on Leave:** During the leave the employee must update their supervisor at least every 30 days of his/her status with health care provider certification and the intention to return to work.
- E. **Second Opinion:** The City may require a second opinion and periodic recertification. If a first and second opinion differ, the City may require the binding opinion of a third health care provider, approved jointly by the City and the employee and paid for by the City.

- F. **Workers Compensation:** Workers' compensation will automatically be counted against your Federal Family Medical Leave entitlement provided it meets the requirements.
- G. **Intermittent Leave:** Under the Wisconsin FMLA provision, intermittent leave may be taken as long as it does not unduly disrupt the department's operations. Departments must notify Human Resources before approving such a request.

Under the Federal FMLA provision, intermittent leave may be taken for a birth or placement of a child for adoption, foster care or military family leave. Employees may take leave intermittently or on a reduced leave schedule with prior approval by the Department Director and Human Resources. When FMLA is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary.

- H. **Substitution:** Under the Wisconsin FMLA, employees have the ability to substitute leave.

Under the Federal FMLA, the City of Appleton requires the leave to be charged against any leave available such as vacation, floating holidays, personal days or compensatory time in the order to be chosen by the employee. Sick leave may be used only if the reason for the sick leave use qualifies under current City policy or collective bargaining agreements, whichever applies. Leave can only be substituted up to the amount the employee has accrued and on the books.

~~During the first 30 days of unpaid leave, an~~ employee will continue to accrue all benefits provided by City policies and collective bargaining agreements. ~~Benefits other than health care coverage will cease to accrue beyond 30 days of unpaid leave. Employees substituting accrued paid leave for FMLA will continue to accrue benefits as provided by and consistent with City personnel policies and or applicable collective bargaining agreements.~~

Leave beyond the FMLA entitlement must be approved in advance, and is subject to any collective bargaining agreements or policies and procedures.

- I. **Proof of parentage or placement:** May be required prior to family leave being granted.
- J. **Return to Work:** Employees off on medical leave will be required to provide a "return to work" certification before they return to work indicating that the essential functions of the job can be performed. This must be obtained from the health care provider.
- K. **Approval:** Human Resources must approve or deny all requests.
- L. **Return from FMLA:** Upon return from family or medical leave, an employee will be returned to the position he/she held immediately prior to the leave if the position is vacant. If the position is not vacant, the employee will be placed in an equivalent employment position. Job restoration upon returning from FMLA leave can be denied if:

1. The employee would have been laid off had they not been on leave;
2. The employee fraudulently obtained leave under the Acts; or
3. The employee fails to provide medical certification that they can return to work.

If the employee extends his/her leave beyond the FMLA provisions and has had prior approval, job restoration and recall is subject to the terms of City personnel policies and or the applicable collective bargaining agreement.

- M. **Group Health Coverage:** Group health care coverage will continue for employees on leave as if they were still working. If applicable, employees who are granted a leave under this policy are advised to arrange to pay their share of premiums during the absence. If the leave is paid, premiums will continue to be paid through payroll deductions. If the leave is unpaid, employees are responsible for making sure the City receives premium payments by the normal payroll dates. If payments are not received within 30 days of the due date, coverage may be discontinued. This includes other benefits such as life, dental, flexible spending accounts, etc.
- N. **No Return to Work from FMLA:** If an employee chooses not to return to work (i.e. return to work for 30 calendar days) after an approved leave, the City may recover from the employee the cost of any premiums made to maintain the employee's health insurance, unless the failure to return is because of a serious health condition or reasons beyond the employee's control. Benefit entitlements based on length of service will be calculated as of the last paid workday before the start of the unpaid absence. If the employee substitutes leave, the length of service will be calculated as of the last paid workday substituted.
- O. Any correspondence sent to the employee will be sent to their last known address filed with Human Resources. Employees must notify Human Resources with any change of address.
- P. **Nursing Mothers:** Under the section 4207 of the Patient Protection and Affordable Care Act of 2010, employees are allowed unpaid reasonable break time to express breast milk. Interested employees should contact their supervisor or Human Resources and a private location will be identified.

## VI. FALSIFICATION OF FORMS

An employee will be subject to disciplinary action up to and including discharge for falsifying any information required or requested as part of the application process, or receiving leave or benefits under the FMLA or this policy.

## VII. EMPLOYER RESPONSIBILITIES

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## VII. UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to :

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

# RECRUITMENT STATUS REPORT

UPDATES THRU 7/5/18

STAFF PERSON	POSITION	DEPT.	Date of Vacancy	RTF Approval Date	# of Openings	STATUS
KIM	PT Bus Driver	VT	NA	NA	Flexible	Will keep process open with new flex schedule options.
	Bus Driver	VT	7/6/17	9/20/17	4	Application deadline extended to 9/30/18. Next interviews scheduled for 7/17/18. Medical pending on candidate.
	Arborist	DPW	6/19/18	6/19/18	1	Application deadline 7/1/18. Interviews 7/10/18.
	Customer Service Specialist .5 FTE	DPW	4/9/18	5/15/18	1	Testing deadline 6/15/18. Jenifer Huss starting 7/16/18.
	Street Maintenance Repair (Operator II – Street)	DPW	7/9/18	6/27/18	1	Retirement of Mike Peters. Application deadline 7/11/18.
JAY	Police Officer	Police	NA	NA	Elig list	Taylor Justice start date 8/3/2018. Panel Interviews scheduled for 7/16/2018 and 7/17/2018.
	Community Service Officer	Police	NA	3/26/18	N/A	Medical results pending on one candidate. Background pending on two candidates.
	Communication Technician	Police	6/21/18	Pending	1	Susan Deruchowski resignation. Request to fill pending.
	Library Clerk (Sub)	Library	N/A	6/12/18	1 + Elig list	Panel interviews scheduled for 7/17/2018.
	Librarian (Children's)	Library	6/18/18	6/18/18	1	Application deadline 7/8/18.
	Library Page Clerk (Part-Time)	Library	6/3/2018	5/23/2018	1	References and background pending on top candidate.
	Public Health Nurse (.5 FTE)	Health	4/26/18	4/6/18	1	Panel interviews scheduled for 7/19/2018.

TOTAL POSITIONS OPEN = 12 TOTAL ELIGIBILITY LISTS = 2

**Note: Part time non-benefited positions do not (per Recruitment Policy) require authorization outside the department. The Mayor has asked departments to scrutinize**

**POSITIONS ON HOLD**

<b>STAFF PERSON</b>	<b>POSITION</b>	<b>DEPT</b>	<b>Date(s) of Opening(s)</b>	<b>RTF Approval Date</b>	<b># of Openings</b>	<b>Person Vacating Position/Status</b>
<b>JAY</b>	Systems Analyst	IT	7/6/15	Hold	1	Department re-evaluating position. Using part-time temporary staffing to fill current need
	Public Health Preparedness Coordinator (.75 FTE)	Health	5/3/18	5/3/18	1	Currently reviewing the position structure.
<b>KIM</b>	Community Relations Specialist .5 FTE	VT	1/13/17	Pending	1	Resignation of Nikki Voeltzke Re-org approved by Council on 6/21/17 (to .5)

**TOTAL POSITIONS ON HOLD = 3**