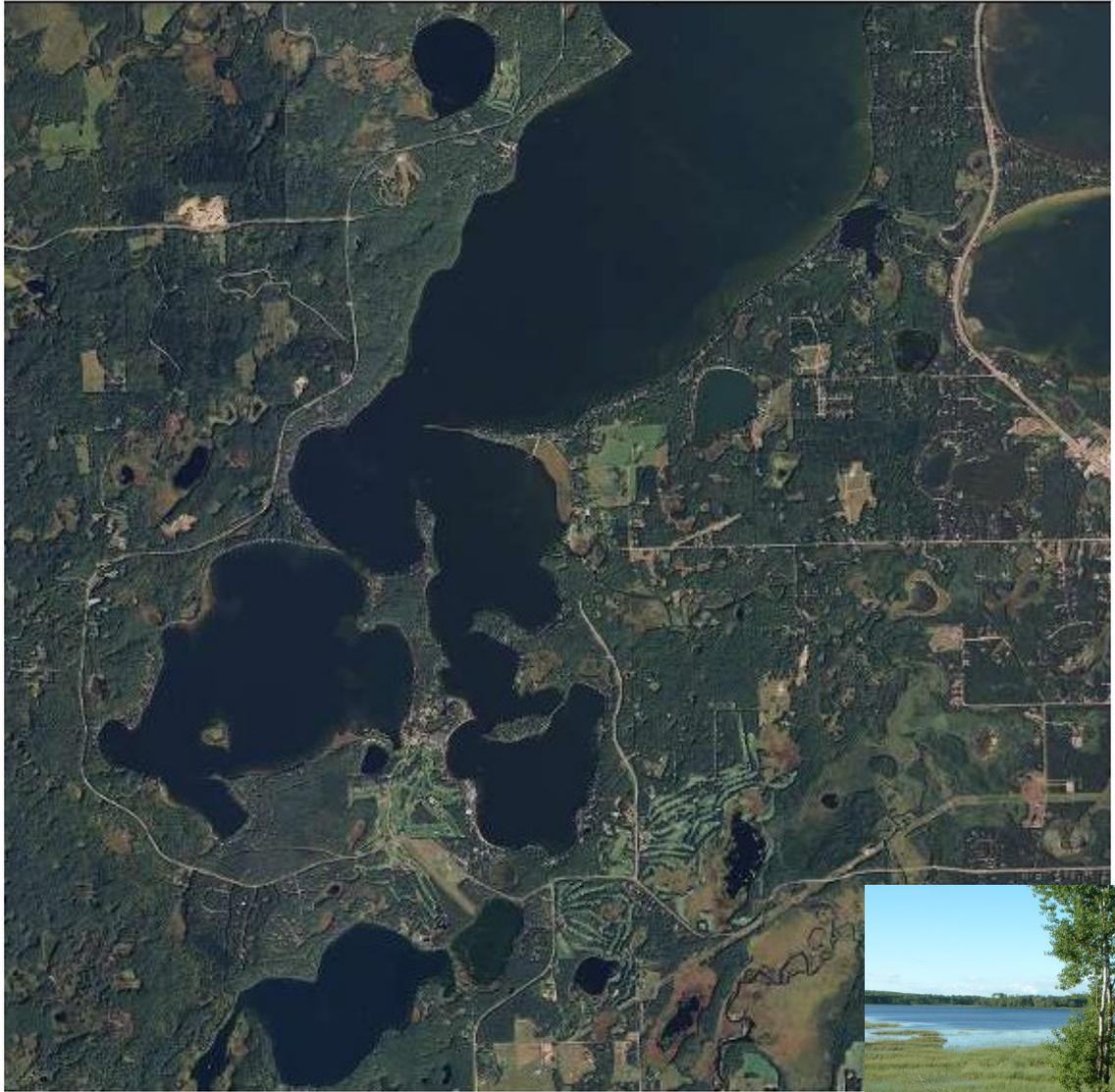


# CITY OF EAST GULL LAKE PERSONNEL POLICY



City of East Gull Lake  
10790 Squaw Point Rd  
East Gull Lake, MN 56401

## **PERSONNEL POLICY**

**Purpose:** It is the purpose of the Personnel Policy to establish a uniform and equitable system of personnel administration for employees of the City of East Gull Lake.

### **Scope of Personnel Policy**

Subdivision 1 **Personnel Covered:** Except as otherwise specifically provided, the Policy applies to all employees of the city except the following:

- a. All elected officials; (except Out-of-State Travel Policy)
- b. The city attorney, city engineer, city certified public accountant or auditor, and health officer and assistant health officer;
- c. Members of city boards, commissions, and committees;
- d. Volunteer firefighters and other volunteer personnel;
- e. Emergency employees;
- f. Other employees not regularly employed.

### **Intent**

Subdivision 1 **Intention of City Regarding Policies and Employment:** The foregoing policies are unilaterally created and implemented by the City and are intended to serve only as guides for employment. The policies are not terms and shall not be regarded as or construed as contractual provisions. As guides, the provisions may be changed at anytime at the sole discretion and instance of the City Council. The provisions shall not be interpreted as creating anything other than an at will employment setting, wherein the employee may terminate his/her employment at any time for any reason and the City may terminate the employee at any time for any reason.

### Subdivision 2 **Definitions:**

- a. **Authorized Hours-** The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee's supervisor.
- b. **Department Head-**An employee who is directly in charge of a specific department i.e. (Police or Administration).

- c. **Exempt Employee**-An employee assigned to an executive, administrative, or professional position which is exempt from the minimum wage and overtime compensation provisions of the Federal Fair Labor Standards Act (FLSA).
- d. **Full-Time Employee**-An employee who is scheduled to work an average of 40 hours per week year round in an ongoing position.
- e. **Immediate Family**-Any two or more individuals who reside in the same dwelling unit or who are related to each other by blood, marriage or adoption; whereby one of the individuals is the spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew.
- f. **Non-Exempt Employee**-An employee assigned to a support or technical position which is subject to the minimum wage and overtime compensation provisions of the Federal Fair Labor Standards Act (FLSA).
- g. **On-Call (Call-Outs)**- An employee that works an irregular schedule as needed by their department.
- h. **Part-Time Employee**-An employee who is scheduled to work an average of 32 hours per week, or less, year round in an ongoing position.
- i. **Pay Period**-A two-week period beginning at 12:00a.m. Saturday through 11:59p.m. Friday two weeks later.
- j. **Promotion**-Movement of an employee from one job class to another within the City where the maximum salary for the new position is higher than that of the former position.
- k. **Reclassify**-Movement of a job from one classification to another classification because of a significant change in the position's duties and responsibilities.
- l. **Regular Employee**-An employee who has successfully completed all stages of the selection process, including the training period.
- m. **Temporary Appointment**-Appointment to a City position on a temporary basis where no benefit eligibility exists and no credit is given for seniority.
- n. **Temporary/Seasonal Employee**-An employee hired for a specific project or period of time. No temporary employee shall be hired for a period of more than six months. Temporary employees are not eligible for benefits and may be exempt from certain policies.
- o. **Training Period- (Probationary)** A six month period at the start of employment with the City (or at the beginning of a promotion, reassignment or transfer) that is designated as a period within which to leave the job. The training period is the last part of the selection process.

Subdivision 3 **Provisions Superseded in Certain Cases:** Any employee included in a collective bargaining agreement entered into in accordance with the Public Employment Labor Relations Act, Minnesota Statutes Section 179A. 01 to 179.46 and 43A. 11.

To the extent that this policy violates or conflicts with any law, statute, constitution, regulations, or collective bargaining agreement, the offending provision of this policy shall be void, but all remaining provisions of this policy shall remain in effect.

## **Appointments**

Every appointment to municipal service shall be made by the City Council on the basis of merit and fitness for the position. When required by law or by the Council, merit and fitness for the position shall be ascertained by written, oral, or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

Subdivision 1 **Physical Examinations:** The City may require physical examinations, paid for by the City, as a condition of employment. When required, the applicant shall submit to a physical examination and provide the attending physician with all necessary information and history including the job description for the proposed position.

Subdivision 2 **Vacancies:** Wherever practicable, the city will fill all vacancies by promotion from within provided the applicants or employees are qualified based on merit and fitness.

## **Probationary Period**

Subdivision 1 **Purpose:** The probationary period is an integral part of the selection process and shall be utilized for observing the employee's work, for securing the most effective adjustment of the employee to the position, and for rejecting any employee whose performance does not meet the required work standards.

Subdivision 2 **Duration:** Every original appointment and every promotional appointment is subject to a probationary period of six months after appointment, and thereafter if extended in writing by the City Council under Subdivision 4 herein.

Subdivision 3 **Termination:** The Council may terminate a probationary employee at any time during the probationary period at the city's discretion. The probationary employee so terminated shall be notified in writing of the termination and shall not have the right to appeal unless he/she is a veteran, in which case the procedure prescribed in Minnesota Statutes Section 197.46 shall be followed.

Subdivision 4 **Completion:** Immediately prior to the expiration of the probationary period, the department head, unless there is no department head, and in such case said Council liaison shall directly notify the Council in writing whether or not the services of the employee have been satisfactory and whether or not the employee will be continued. If notification states that the employee will be continued, the employee shall become a regular employee at the end

of the probationary period. The city reserves the right to extend the probationary period for a period not exceeding 90 days.

## **Compensation**

Subdivision 1 **Amount:** Employees of the City shall be compensated according to the schedule established by the City Council. Any wage or salary so established is the total remuneration for employment, but shall not be considered as reimbursement for official travel or other expenses which may be allowed for the conduct of official business. Unless approved by the Council, no employee shall receive pay or bonuses from the City in addition to the salary authorized for the position to which he/she has been appointed. All employees shall record time and all time sheets shall be turned in to the City Administrator on the last day of the pay period. All time sheets shall be filed in the employees permanent personnel file.

Subdivision 2 **Emergency Call-Out:** An employee available for “emergency call-out” who is actually called out for emergency service shall be entitled to a minimum of two hours compensation at one and one-half time the employee’s regular rate of pay.

Work which is done during hours other than an employee’s regular shift, but which do not qualify as an “emergency call-out”, shall not be eligible for treatment as an “emergency call-out” for purposes of compensation. The employee shall make arrangements to take time off to the extent of “call-out” time incurred. Each employee is charged with the responsibility of using their best efforts to comply with these provisions.

Subdivision 3 **Comparable Worth:** Subject to Minnesota Statutes, Section 179A.25 but not withstanding any other law to the contrary, the City shall and has, by October 3, 2006, established equitable compensation relationships as prescribed by Minnesota Statutes Sections 471.991 to 471.999. Thereafter compensation of each class of City positions shall be fixed in compliance with the provisions of those statutes.

Subdivision 4 **Overtime:** Employees to whom the Federal Fair Labor Standards Act applies shall be compensated for overtime worked by compensatory time off (at the rate of one and one-half hours for each one hour of overtime worked). Compensatory time off shall be taken as approved by the City Administrator. Employees must submit a time sheet to the City Administrator for payment. An employee may accumulate compensatory time. In case of termination, for any reason, accrued compensatory time shall be paid to the employee in cash.

Subdivision 5 **Paydays:** Pay periods shall be bi-weekly and shall be administered as follows: Pay periods shall begin on Saturday and shall end on the second following Friday. Time sheets shall be delivered to the Administrator the Monday of the week after the end of the pay period. Employees shall receive their pay the following Friday after the end of the pay period.

Subdivision 6 **Benefits:** All regular Full-Time employees shall receive sick leave, vacation leave, holiday leave, and insurance benefits. Gregg Struss will still receive part-time sick leave, vacation leave, and holiday leave.

## Work Hours

The Administrator shall establish work schedules for each department. The regular work week for employees is a forty-hour week over and above the lunch period; Monday through Friday, except as otherwise established by the City Council in accordance with custom and needs of the department. The lunch period shall be taken at the discretion of the employee without compensation.

Subdivision 1 **Rest or Break Periods:** Every employee, when working under conditions where a rest or break period is practical, shall be granted a 15 minute rest or break period in each of the employee's shifts. Each department should schedule rest or break periods so not to interfere with work requirements.

Subdivision 2 **Work Week:** For purposes of establishing a work week under the Fair Labor Standards Act, each week shall commence on Saturday and end on the following Friday.

Subdivision 3 **Vacation Leave with Pay:** Regular full time employees under these provisions shall accrue vacation, upon successful completion of their probationary period, as follows:

<u>Completed Years of Employment</u>	<u>Vacation Leave</u>
One Year	Five Working Days
Two through Five Years	Ten Working Days
Six through Ten Years	Fifteen Working Days
Over Ten Years	Twenty Working Days

Subdivision 4 **Taking Vacation:** Vacation leave may be used as earned, subject to the approval of the City Administrator. The City Administrator shall make reasonable efforts to schedule vacations greater than a five-day period at times requested by employees, provided that a two-week advance notice is given. Once scheduled, an employee's vacation shall not be changed unless approved in advance by the Administrator.

Subdivision 5 **Terminal Leave:** Any employee leaving the municipal service in good standing after giving proper notice of such termination of employment shall be compensated for vacation leave accrued and unused to the date of separation.

## Sick Leave

Subdivision 1 **Amount:** Every probationary and regular Full-Time employee shall earn sick leave at the rate of six days per calendar year. Sick leave may be accumulated to a maximum of 120 days and may be granted in units of not less than two hours.

Subdivision 2 **Purposes:** Sick leave may be granted to employees when the employee is unable to perform work duties due to illness, disability, the necessity for medical, dental or chiropractic care, or to provide necessary care for immediate family members which cannot be obtained in another manner which requires the presence of the employee, or when the employee has been exposed to a contagious disease where such exposure may endanger the

health of others with whom the employee would come in contact in the course of performing work duties. For the purposes of this subdivision, immediate family shall mean the employee's spouse, child, or other dependant family member living in the employee's home.

Subdivision 3 **Parental Leave:** Parental leave will be provided to a employee pursuant to the Family Medical Leave Act. Employees must use sick leave prior to using FMLA leave. Vacation time may be used in lieu of FMLA leave.

Subdivision 4 **Proof:** To be eligible for sick leave with pay, an employee shall (1) report as soon as possible to City Administrator the reason for his/her absence; (2) keep the Administrator informed of his/her condition; and if the absence is of more than three days' duration, submit a medical certificate for any absence. The medical certificate shall contain the medical provider's indication of when the employee is likely to return to work and any limitation on the employee's work upon return to duty.

Subdivision 5 **Penalty:** Using or claiming sick leave for a purpose not authorized by Subdivision 2 may be cause for disciplinary action.

Subdivision 6 **Applicability to Leave Benefits:** During the probationary period following an original appointment, an employee is not entitled to sick leave or vacation leave. After the end of the probationary period, an employee is entitled to sick leave and vacation leave accrued from the start of employment.

Subdivision 7 **Sick Leave Benefits Payment upon Separation:** Upon separation from employment, either due to retirement, voluntary or involuntary termination or for whatever reason, all employees who have accrued up to 30 days of sick leave shall receive monetary compensation in the amount of ten percent (10%) in cash, at their rate of pay at the time of retirement. Employees who have accrued more than thirty days of sick leave shall receive monetary compensation in the amount of 25% in cash for the days in excess of thirty-one days and up to one hundred twenty days.

Subdivision 8 **Bereavement Leave:** Bereavement leave may be granted for a maximum of five days annually with pay, to be deducted from the employee's sick leave, in the event of the death of an employee's immediate family member or household members. Immediate family is intended to include the employee's spouse, child, sister, brother, mother or father, mother in-law or father in-law, or other person regularly residing in the home of the employee.

### **Leaves without Pay**

The Council may grant any regular employee a leave of absence without pay for a period not exceeding ninety days except that it may extend such leaves to a maximum period of one year in case the employee is disabled or where extraordinary circumstances in its judgment warrant such extension. No employment benefits, including without limitations vacation benefits or sick leave benefits, shall accrue during a leave of absence without pay or on unpaid leave. Employees granted leaves of absence must reimburse the City for their health and insurance benefits for the entire duration of their absence. Payments shall be made prior to the first of

each month for the next month's coverage. Failure to make the appropriate payments may result in the lapse of said employee's insurance.

### **Jury or Witness Duty**

When an employee performs jury duty or is subpoenaed as a witness in court or voluntarily serves as a witness in a case in which the City is a party, the employee is entitled to compensation from the City equal to the difference between his/her regular pay and the amount received as a juror or witness. Employees excused or released from jury duty or as a witness during their regular working hours shall report to work immediately thereafter.

### **Holidays**

Subdivision 1 **Holidays:** The following calendar days are paid holidays: New Year's Day, January 1; Martin Luther King Day, the third Monday of January; President's Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veterans' Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25, and two personal holidays to be selected by the employee, subject to approval by the Administrator. All full time employees are entitled to time off with full pay on holidays. Gregg Struss will still receive part-time Holiday pay.

The City Hall shall be closed for business on each such holiday but employees may be required to work on paid holidays when the nature of their duties or other conditions requires. An employee required to work on a holiday shall receive another day off within 30 days. When New Year's Day, Independence Day, Veterans' Day, or Christmas Day falls on Sunday, the following Monday is a paid holiday, and if any such day falls on Saturday, the preceding Friday is a holiday. Each holiday commences at the beginning of the first shift on the day on which the holiday occurs and continues for 24 hours thereafter. Eligible employees shall receive pay for official holidays at their normal rate of pay if they are at work or on a leave of absence with pay during the last regular shift to which they would have been assigned prior to the holiday and the first regular shift to which they would have been assigned following the holiday. Regular employees are entitled to pro-rated holiday pay to the percentage of full time (40 hours) actually worked.

All official holidays shall be considered to commence at the beginning of the first shift on the day on which holiday is observed and continue for 24 consecutive hours thereafter.

### **Resignation**

Any employee wishing to leave the municipal service in good standing except for mandatory retirement shall file with the Administrator, at least 14 days before leaving, a written resignation stating the effective date of the resignation and the reason for leaving. Failure to comply with this procedure may be considered cause for denying the employee future employment by the City and denying terminal leave benefits. Unauthorized absences from

work for a period of three working days or more may be considered by the Administrator as a resignation without benefits.

### **Grievance Policy**

It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those that occur. When any employee grievance comes to the attention of a supervisory employee, the supervisor shall discuss all relevant circumstances with the employee and his representative if he so desires, consider and examine the causes of the grievance, and attempt to resolve it to the extent that he has authority to do so. In cases where there is no supervisor employee, the full City Council shall serve in the supervisor employee's place.

### **Conflict Resolution**

All other issues of conflict or concern not specifically addressed by the grievance procedures or disciplinary procedure set out herein shall be communicated through the following lines of authority: employee, Administrator, if applicable, Council liaison.

### **Layoffs**

After at least two weeks' notice to the employee, the Council may lay off any employee whenever such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization. No regular or probationary employee shall be laid off while there is a temporary employee serving in the same class or position for which the regular or probationary employee is qualified, eligible, and available.

### **Discipline**

Subdivision 1 **General:** City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including observance of work rules adopted by the Council. It is the policy of the City to administer disciplinary penalties without discrimination.

Subdivision 2 **Disciplinary Action Procedure:** The following procedure is required whenever disciplinary action is anticipated.

- a. Obtain written and signed complaint(s).
- b. Written complaints shall be delivered to the Administrator but if the complaint is against the Administrator, the written complaint shall be delivered to the City Council through the City Council liaison.
- c. In all cases the Administrator shall contact the office of the City Attorney for advice on procedure. The City Attorney shall advise the Administrator of the actions which must be taken. The City Attorney shall notify all Council members of the complaint.

- d. When the complaint alleges behavior described above, the Administrator may suspend the employee without pay, pending final determination by the Council. However, if the employee is a Veteran, said Administrator must comply with Veterans' rights.
- e. In cases where the complaint is not grounds for immediate suspension without pay, the Administrator shall:
  - 1) Document the complaint, if possible.
  - 2) Discuss the complaint with the employee.
  - 3) Document the discussion with the employee in writing, secure the employee's signature on the documentation, make a copy of the documentation available to the employee, and file the documentation in the permanent file of the employee.
  - 4) Seek problem resolution, which addresses the complaint, its cause and changes required of employee, if any.
  - 5) Consult City Attorney for advice on final disposition of the complaint.
  - 6) Notify the City Council of the disposition of the case or of further action required.
- f. The City Council may, upon notification by the Administrator, discuss allegations to preliminarily consider allegations of charges against an individual, subject to its authority. Said meeting shall be conducted pursuant to Minnesota Law, including the Open Meeting Law and the Data Practices Act.
- g. If after following the procedure outlined herein the City Council determines that discipline is/was warranted and discipline is severe, such as suspension or termination, the City Council shall, upon written demand, within five days, provide the employee with notice of termination, suspension, demotion in a form substantially similar to the attached Exhibit "3". Said form must be tailored to specific circumstances to the case at hand and shall be placed in the employee's personnel file.
- h. The following procedure shall also be followed in the following cases:
  - 1. Suspension without pay. Prior to the suspension or as soon thereafter as possible, the employee shall be notified in writing of the reason for the suspension and its length. Upon the employee's return to work, he/she shall be given a written statement outlining further disciplinary actions should the misconduct continue. An employee may be suspended pending investigation of

an allegation. A copy of each written statement shall be placed in the employee's personal file, but if the suspension is for investigation and the allegation proves false, the statement shall be removed and the employee shall receive any compensation to which he/she would have been entitled had the suspension not taken place.

2. Dismissal. The Council may dismiss any employee, but if the employee has completed his/her probationary period, a dismissal shall be only upon a 4/5 vote of the City Council or, in the case of an abstention, upon ¾ vote of the Council.

Subdivision 3 **Veterans:** Before termination, suspension or dismissal of a Veteran, the Administrator shall determine whether the employee is a Veteran entitled to special notice or hearing, as defined by the Minnesota Veteran's Preference Act. Such Veteran shall be notified of the intent to discharge the Veteran, pursuant to Minnesota Statute 197.46, and shall be notified in writing of such intent and notified of the Veteran's right to request a hearing within 60 days of receipt of the Notice of Intent to Discharge. The failure of a Veteran to request a hearing within the provided 60-day period shall constitute a waiver of the right to a hearing. Such failure shall also waive all other available legal remedies for reinstatement. Request for a hearing by the Veteran shall be made in writing and submitted by mail or personal service to City Hall, c/o of the Administrator. The Administrator is to contact the City Attorney regarding Veterans procedure.

Subdivision 4 **Severe Infractions:** The following conduct or action on the part of an employee constitutes a severe infraction and the basis for immediate termination, if deemed appropriate by the Council, without progressive discipline. Although the legal relationship between the City of East Gull Lake and its employees is that of an "at will" relationship, in an effort to provide some guidelines and directives to the Administrator and personnel decisions of the City of East Gull Lake, the following list of severe infractions is set out below merely for example:

1. Theft, defined as follows:
  - a. Conversion of personal property. Personal use of city property by employees shall not be permitted, unless approved in writing by the Administrator. The writing shall contain a description of the property, how long the employee is permitted to use it, and what purpose.
  - b. Criminal theft.
  - c. Forgery or Falsification of Records. No person shall knowingly make any false statement, certificate, mark, rating, or report in regard to any test certificate, or appointment held or made under the City personnel system, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the provisions of this Personnel Policy, forgery or falsification of records, including, but not limited to work time cards, misrepresentation, alteration of

records and documents and writings relied upon by the City in its normal operations.

2. Drunkenness or intoxication or consumption of alcohol or alcoholic beverages during working hours (hours for which employee is compensated). The use of illicit drugs, controlled substances, or alcohol or the possession of illicit drugs, controlled substance, or alcohol on the job. The City Alcohol and Drug Policy are set forth in Section 11.50 of the City Code.
3. Perjury or oral misrepresentations relied upon by the City in its normal business operations.
4. Unlawful acts, defined as follows:
  - a. Rendering of consideration. No person seeking employment to or promotion in the municipal service shall either directly or indirectly give, render, or pay any money, service, or other valuable consideration to any person, or on account of or in connection with his/her test, appointment, promotion, or proposed appointment or promotion.
5. Conviction of a Felony.
6. Conviction of DUI or refusal to be tested under the implied consent law, as follows:
  - a. DUI or refusal occurs while the employee is working for the city and operating a city vehicle or equipment, and/or
  - b. The conviction or refusal results in the loss of the driver's license required for the performance of the employee's duties.

Subdivision 5 **Other disciplinary actions:** The following other disciplinary actions may be taken against any employee after compliance with the above procedure has been followed:

- a. Involuntary demotion. This step shall be taken only if the employee does not have the ability to function at the higher level.
- b. Forced transfer to a comparable position under a different supervisor. This step may be taken only if the problem is due to personal incompatibility between the Administrator and employee.
- c. Withholding a salary increase or decreasing an employee's salary. The employee shall be notified in writing of the action and the reasons therefore. A copy of the notice shall be placed in the employee's file. In no case shall an employee's salary be decreased below the minimum of the salary range of the employee's class or below the applicable minimum wage.

Subdivision 6 **Hearing:** In any case of suspension, dismissal, or demotion, the employee may be granted a hearing upon written request for such a hearing made to the Council within five working days of notification of the action taken. The hearing shall be before the Council. The hearing shall be held within 15 working days from the date the request is filed unless the City and the employee agree on a later date. Hearings regarding personnel discipline issues shall be held pursuant to the provisions of Minnesota Statute 471.705.

Subdivision 7 **Council Action:** If, after the hearing, or in the event no hearing is granted, the Council finds that the charges are sustained, the dismissal, suspension, or demotion shall be final. If the Council finds that the charges are not sustained, the employee, if he/she had not been suspended pending investigation, shall be reinstated and paid all back pay due for the period of suspension; if there has been no suspension, the employee shall be continued in the position as though the disciplinary action had not been taken. In the event of a hearing, findings by the Council shall be in writing and filed with the Administrator within five days after completion of the hearing. The Council shall give written notice of the decision to the employee, upon written demand. If the disciplinary action involves the removal of a veteran entitled to a hearing under Minnesota Statute Section 197. et. seq., the hearing shall be held in accordance with Minnesota Statutes Section 197.46.

Subdivision 8 **Responsibilities of City Employees:** Efficient and effective delivery of municipal service requires active effort and cooperation between city employees and the general public. It is particularly important that all work undertaken by City employees be accomplished expeditiously, efficiently and economically. To reach this goal, the establishment of rules for employee conduct and responsibility are required.

1. It shall be the responsibility of all employees to:
  - a. Perform their assigned duties and responsibilities to the best of their ability at all times, and to continually strive to improve their performance;
  - b. Render prompt, friendly and courteous service to the public at all times;
  - c. Read, understand and comply with the rules and regulations as set forth in this personnel policy, administrative regulations and department rules;
  - d. Conduct themselves with decorum and respond to inquiries and information with patience and every possible courtesy;
  - e. Report all unsafe conditions to their supervisor report all injuries to their supervisor and file the appropriate accident or injury related reports immediately.
  - f. Recommend ideas for improving city services or methods for achieving greater efficiency or economy.

## Insurance

All Full-Time employees shall be eligible for health care benefits or reimbursements provided by the city. From time to time, the City Council may determine what benefits will be paid by the City and what co-payment will be required of employees, if any. With respect to health insurance benefits, all new Full-Time employees shall be eligible for health care benefits under the City's Group Health Insurance Policy on the first of the month after completion of one full month of service following the completion of their probationary period. The Administrator utilizing the current policy shall establish the employee's portion of payment of the premium for health insurance.

### **Personnel File**

Each employee shall have a permanent personnel file on file in the office of the Administrator. Copies of all pertinent correspondence, annual performance evaluations, responses to evaluations, W-4, I-9 and other required forms shall be stored in this file. Personnel files shall be secured and available to employees only upon request to the Administrator.

### **Performance Review**

Employees shall be provided with a performance review at the end of their probationary period of employment and annually thereafter. The City Administrator or the employee's immediate supervisor shall be responsible to prepare the evaluation in a timely manner and meet with the employee regarding the evaluation. The employee shall be given the opportunity to respond to the evaluation in writing.

### **Out of Town/State Travel and Education**

Education and travel expenses must be pre-approved by the Administrator. Travel expenses for trips made by City employees on behalf of the City or for education or training shall be reimbursed as follows:

Motel rooms, meals, and mileage shall be reimbursed at cost up to the limits set by the Internal Revenue Service, and subject to Internal Revenue Service Rules and Regulations.

### **Personal Vehicle Mileage**

Employees driving personal vehicles for City purposes shall be reimbursed at the rate established by the Internal Revenue Service Rules and Regulations. The Internal Revenue Service shall adjust said rate immediately upon notification of an adjustment. Mileage costs shall be reimbursed to employees monthly upon submission of a mileage log.

### **Civil Rights Policy**

No person shall be employed, promoted, demoted, or discharged by the City or in any way favored or discriminated against because of political opinions or affiliations, race, color, national origin, sex, marital status, status with regard to public assistance or disability, sexual orientation, or because of the exercise of rights under provisions of the Public Employment Labor Relations Act, Minn. Stat. 179A.01 to 179A.25

## **ELECTED OFFICIAL OUT-OF-STATE TRAVEL POLICY**

### **Purpose:**

The City of East Gull Lake recognizes that its elected official may at times receive value from traveling out of the state for workshops, conferences, events and other assignments. This policy sets forth the conditions under which out-of-state travel will be reimbursed by the City.

### **General Guidelines:**

1. The event, workshop, conference or assignment must be approved in advance by the City Council at an open meeting and must include an estimate of the cost of the travel. In evaluating the out-of-state travel request, the Council will consider the following:
  - Whether the elected official will be receiving training on issues relevant to the city or to his or her role as the Mayor or as a council member
  - Whether the elected official will be meeting and networking with other elected officials from around the country to exchange ideas on topics of relevance to the City or on the official roles of local elected officials
  - Whether the elected official will be viewing a city facility or function that is similar in nature to one that is currently operating at, or under consideration by the City where the purpose for the trip is to study the facility or function to bring back ideas for the consideration of the full council
  - Whether the elected official has been specifically assigned by the Council to visit another city for the purpose of establishing a goodwill relationship such as a “sister-city” relationship (see Note below)
  - Whether the elected official has been specifically assigned by the Council to testify on behalf of the city at the United States Congress or to otherwise meet with federal officials on behalf of the city
  - Whether the city has sufficient funding available in the budget to pay the cost of the trip
2. No reimbursements will be made for attendance at events sponsored by or affiliated with political parties.
3. The city may make payments in advance for airfare, lodging and registration if specifically approved by the council. Otherwise all payments will be made as reimbursements to the elected official.
4. The City will reimburse for transportation, lodging, meals, registration, and incidental costs using the same procedures, limitations and guidelines outlined in the city’s policy for out-of-state travel by city employees.
5. Airfare will be reimbursed at the coach rate.
6. Mileage will be reimbursed at the IRS rate. If two or more council members travel together by car, only the driver will receive reimbursement. The city will reimburse for the cost of renting an automobile if necessary to conduct city business.
7. Lodging and meal costs are limited to those which are reasonable and necessary.
8. Receipts are required for lodging, airfare, and meals and should accompany an expense report form. It is not necessary to have receipts for cabs and tips. The expense report form shall be submitted to the City Administrator for payment.

9. The city will not reimburse for alcoholic beverages, personal telephone calls, costs associated with the attendance of a family member, rental of luxury vehicles, meal expenses included in the cost of registration, or recreational expenses such as golf or tennis.

## **DRUG AND ALCOHOL POLICY**

### **Purpose:**

It is the purpose of this section is to establish a uniform drug and alcohol policy and an equitable system of administration for drug and alcohol testing for employees of the City of East Gull Lake.

### **Scope of Ordinance:**

**Personnel Covered:** Except as otherwise specifically provided, this ordinance applies to all employees and job applicants of the City of East Gull Lake except the following:

1. All elected officials;
2. The City attorney, City engineer, City certified public accountant or auditor, and the health officer;
3. Members of City boards, commissions, and committees;
4. Volunteer firefighters and other volunteer personnel;
5. Emergency employees/hires;
6. Other employees not regularly employed in full-time positions.

### **Definitions:**

**“City”:** “City” shall mean City of East Gull Lake.

**“Confirmatory Test and Confirmatory Retest”:** “Confirmatory Test and Confirmatory Retest” means a drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Minn. Stat. Section 181.953, Subd. 1.

**“Drug”:** “Drug” means a controlled substance as defined in Minn. Stat. 152.01, subd. 4.

**“Drug Paraphernalia”:** “Drug Paraphernalia” has the meaning defined in Minn. Statute 152.01, subd. 18.

**“Drug and alcohol testing”, “drug or alcohol testing”, and “drug or alcohol test”:** “Drug and alcohol testing”, “drug or alcohol testing”, and “drug or alcohol test” means analysis of a body component sample according to the standards established under one of the programs listed in Section 181.953, subd. 1. For the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

**“Employer”:** “Employer” means the City of East Gull Lake.

**“Positive test result”:** “Positive test result” means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. Section 181.953, subd. 1. Until threshold detection levels are set by the Minnesota Board of Health, or other appropriate state agency, the presence of alcohol, drug or metabolite at or above the following levels shall be considered to be a positive test result:

<b>Substance</b>	<b>Level</b>
Alcohol (urine)	.02Gm/67 ml of urine
Alcohol (blood)	.02Gm/100 ml of blood
Alcohol (breath)	.02Gm/210 L of breath
Amphetamines	300ng/ml
Barbiturates	300ng/ml
Benzodiazepines	300ng/ml
Cocaine metabolite	300ng/ml
Opiates	300ng/ml
PCP (phencyclidine)	75ng/ml
THC metabolite (marijuana)	100ng/ml
LSD (Lysergic acid Diethyl amide)	5ng/ml
3, 4 methylenedioxy amphetamine	300ng/ml
All others	1,000ng/ml

“Gm”:

“L”:

“ml”:

“ng/ml”

**“Random Selection Basis”:** “Random Selection Basis” means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected and (2) does not give employer discretion to waive a selection of any employee selected under the mechanism.

**“Reasonable Suspicion”:** “Reasonable Suspicion” means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

**“Safety-Sensitive Position”:** “Safety-Sensitive Position” means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person. Safety-Sensitive functions include but are not limited to the following:

1. When inspecting and servicing commercial vehicles
2. Driving

3. All other time in a commercial vehicle
4. Loading, unloading, or supervision loading and unloading
5. All time spent on requirements when an accident occurs

**“Under the Influence”:** “Under the Influence” means having the presence of a drug or alcohol at or above the level of a positive test result.

**“Valid Medical Reason”:** “Valid Medical Reason” means (1) one written prescription, or an oral prescription reduced to writing, which satisfies the requisites of Minn Stat. 152.11, and names the employee as the person for whose use it is intended; (2) the drug was prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in Minn Stat. 152.12; and (3) the drug was used in accord with the terms of the prescription. Use of any over-the-counter medication in accord with the terms of the products directions for use shall also constitute a valid medical reason.

**“Chain of Custody”:** “Chain of Custody” procedures are those which account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures shall require that an appropriate drug testing custody form be used from time of collection to receipt by the laboratory and that receipt by the laboratory of an appropriate laboratory chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.

## **GENERAL PROVISIONS**

Subdivision 1. The City of East Gull Lake hereby certifies that it will maintain a drug free and alcohol free workplace by prohibiting employees from engaging in the unlawful manufacture, sale, distribution, possession or use of controlled substances or alcohol on the premises of the employer during working hours.

Subdivision 2. City employees are to be advised of the dangers of drug or alcohol use, penalties for violations on the job, and the availability of drug and alcohol counseling and rehabilitation programs.

Subdivision 3. No employee shall be under the influence of any drug or alcohol while the employee is working or while the employee is on the employer’s premises or operating the employer’s vehicle(s), machinery, or equipment, except pursuant to a valid medical reason.

Subdivision 4. No employee shall use, possess, sell or transfer drugs, alcohol or drug paraphernalia while the employee is on the employer’s premises or operating the employer’s vehicle(s), machinery or equipment, except pursuant to valid medical reasons.

Subdivision 5. No employee, while on duty, shall engage or attempt to engage or conspire to engage in conduct which violates any law or ordinance concerning drugs or alcohol, regardless of whether criminal conviction results from the conduct.

Subdivision 6. Drug testing shall be required of any employee:

- a. Whose conduct on the job causes a supervisor or department head to form a reasonable suspicion that the employee is under the influence of alcohol and/or drugs.
- b. Who has used, possessed, sold, or transferred drugs, alcohol or drug paraphernalia while the employee is working or while the employee is operating the employer's vehicle, machinery or equipment.
- c. Who has sustained a personal injury on the job as that term is defined in Minnesota Statute 176.011, Subd. 16, or has caused, while on the job, another person to die or sustain a personal injury.
- d. Has caused a work related accident with total property damage in excess of \$1,000.00, or was operating or helping to operate machinery, equipment or vehicles involved in such a work related accident. Pursuant to Minnesota Statute Section 181.953, Subd. 4, the employer shall pay for the test. However, if an employee requests a retest, pursuant to Minnesota Statute Section 181.953, Subd. 9, the employee who requires a retest must pay for the retest at their own expense.
  - a. The employee has a right to refuse drug testing. However, the first refusal shall result in suspension without pay pending:
    1. Completion of the test process pursuant to the City Council instruction, and;
    2. Referral for alcohol/drug evaluation and counseling. A refusal in a second or subsequent incident will result in disciplinary action up to and including dismissal.
  - b. If an employee refuses to undergo drug or alcohol testing of a blood sample upon religious grounds, that employee shall be deemed to have refused testing unless the employee agrees to undergo drug or alcohol testing of a urine sample.
  - c. The City will not discharge, discipline, discriminate against or request or require rehabilitation of an employee on the basis of a positive drug test that has not been verified by a confirmatory test (or confirmatory re-test, if taken).
  - d. If such tests are positive, and the employee has previously been through chemical dependency treatment, disciplinary action will be taken up to and including dismissal. If it is a first offense, the employee may keep his/her job providing the employee does the following:
    - i. Signs up for a drug/alcohol counseling/rehabilitation program satisfactory to the city.
    - ii. Participates in and successfully completes the program.

- iii. Agrees to submit to no-notice drug/alcohol testing during the treatment, and for a period of two years after completion of the chemical dependency treatment program.
- e. If it is reasonably necessary to protect the health or safety of the employee, co-workers or the public, the employee can be suspended pending the outcome of a confirmatory retest. Reinstatement with back pay will be provided if the confirmatory retest is negative.

**Procedure for Testing:**

Subdivision 1. "Employee Notice": Before requesting testing the employee shall be given a form which shall substantially comply with the Exhibit A attached hereto, which (a) acknowledges that the employee was provided with a copy of this policy either upon the adoption of the policy or at the time of employment, (b) indicate any over-the counter or prescription medications being used by the employee either currently or within the previous thirty days and any other relevant information which may affect the reliability of the test or which may explain the reason for a positive test result, and (c) indicates consent to undergo the drug and alcohol testing.

Subdivision 2. The test sample shall be obtained in the office of a licensed physician, clinic, or at a hospital. Test samples shall be taken under the supervision of a health care professional at the medical facility of the employer's selection.

Subdivision 3. Samples shall be sealed, dated, initialed and identified with the employee's social security number and shall be handled with the strictest regard for the employee's privacy.

Subdivision 4. Test results shall be provided in writing to the employer and to the employee immediately upon completion of the testing. Within three working days after receipt of a test result report from the testing laboratory, employer shall inform in writing the employee who has undergone the testing of the result.

Subdivision 5. The employee shall have the right to submit information to the City, within three working days after notice of a positive test, to explain the result.

Subdivision 6. The employee shall have the right to request a retest within five working days of notification of a positive test result at the expense of the employee. Said notice shall be given in writing to the Administrator.

Subdivision 7. In the case where the employer elects to terminate the employee whose test results were positive, the results of the initial test must be confirmed by a confirmatory retest.

Subdivision 8. If an employee was suspended without pay and a confirmatory retest or requested confirmatory retest is negative, the employee shall be entitled to full compensation for the period of suspension.

### **Action after Testing:**

Subdivision 1 **Employer Action:** The employer shall not discharge, discipline, discriminate against, request, or require rehabilitation of an employee solely on the basis of a positive test result unless a confirmatory retest has indicated a positive result.

Subdivision 2 **First Offense:** In the event of the first offense under this ordinance, the employee will be referred for an evaluation by a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. If the evaluation determines that the employee has a chemical dependency or abuse problem, the employer shall give the employee an opportunity to participate in, at the employee's own expense or pursuant to the employee's benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the employer consultation with the professionals performing the analysis of the employee.

Subdivision 3 **Employee Refusal:** If the employee refuses to participate in the complete program, as evidenced by failure to complete the program or a positive test result on a confirmatory test after completion of the program, and alcohol or drug abuse prevents the employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others, the employer may discharge the employee.

Subdivision 4 **Second Offense:** In the event of a second offense, where alcohol or drug abuse prevents the employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others, and where the employee has previously received one program of treatment required by the employer within the last five years while an employee of the City of East Gull Lake, the employee may be discharged from employment.

Subdivision 5 **Suspension or Transfers:** Notwithstanding any other provisions herein, the employer may temporarily suspend the tested employee, or transfer that employee to another position, if available, at the same rate of pay pending the outcome of the confirmatory retest, provided the employer believes it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.

Subdivision 6 **Other Misconduct:** Nothing in this policy limits the right of the employer to discipline or discharge an employee on grounds other than a positive test result in a confirmatory test.

### **Random Testing:**

The City of East Gull Lake **shall not** require random drug/alcohol testing pursuant to Code of Federal Regulations, Title 49 (49CFR), Part 382 unless the City shall require employee(s) to maintain a commercial motor vehicle license and operate a commercial motor vehicle.

### **Data Privacy:**

All data collected, including the notification form and the test reports, are intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the person's employment status. The employer will not disclose the test result reports and other information acquired in the drug and alcohol testing process to another employer or a third party individual, governmental agency or private organization without the written consent of the person tested, unless permitted by law or court order.

**Notice of Policy to Employees:** All employees shall be given a copy of this policy and shall sign a receipt indicating that they have received and reviewed the policy. The Administrator shall be responsible to place a copy of the receipt in the permanent personnel file of each employee.

**Effective Date:** Revised July 5, 2016

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Dave Kavanaugh, Mayor