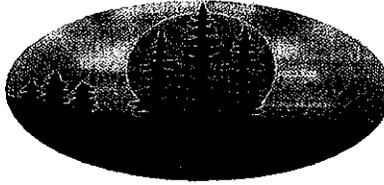


CITY OF MILACA  
CITY COUNCIL MEETING  
COUNCIL AGENDA  
August 17<sup>TH</sup>, 2017

1. Call Meeting to Order 6:30 p.m.
2. Pledge of Allegiance
3. Roll Call- Present: Mayor-Pete Pedersen\_\_ Council Members; Dave Dillan\_\_ Ken Muller\_\_ Norris Johnson\_\_ Laurie Gahm\_\_  
Absent;\_\_\_\_\_
4. **Approval of Agenda** MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
5. **Consent Agenda** MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
  - A. Approval of the Minutes – July 20<sup>th</sup>, 2017 Regular Council Meeting
  - B. Approval of Bills
  - C. Approval of Treasurer’s Report
  - D. Resolution 17-29- Personnel Policies- Revisions
  - E. Resolution 17-30 Assess mowing cost to PID 21-0258-1900 \$60.00
  - F. Resolution 17-31- Assess unpaid fire call Willman/Siegler \$250.00
  - G. Resolution 17-32- DOT Drug and Alcohol Testing for Commercial Drivers Policy
  - H. Resolution 17-33- Non-DOT Drug and Alcohol Testing Policy
  - I. Data Requests- Members of the Public- Name Responsible Authority Designee – City Manager
  - J. Data Requests- For Data Subjects- Name Responsible Authority Designee- City Manager
  - K. Resolution 17-34 MNDOT Airport Maintenance and Operation Grant Contract
6. **Citizen Open Forum- Certificate of Award for Community Service to Pattie Murphy for Farmers Market**
7. **Public Hearing- Reassessment of Tax Forfeited Land**  
**Resolution 17-XX Recertification of Reassessment of Fieldstone Greene** MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
8. **Requests and Communications-**
9. **Ordinances and Resolutions**  
A. Ordinance NO. 428 Lodging Tax MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
10. **Reports of Departments, Boards and Commissions**
  - A. Police Department- Monthly Activity-
  - B. Parks Department/Commission-
  - C. Public Works Department- MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
  - L. Planning Commission-Approval of Variance- 3 foot setback Dale & Beverly Clifton MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
  - D. Liquor Store-
  - E. Economic Development Commission-July 18<sup>th</sup> Review minutes
  - F. Airport Commission-No Meeting in July- Next Meeting August 23
  - G. MCAT
  - H. Joint Powers Board-
  - I. Safety Committee-No Meeting
11. **Unfinished Business**
12. **New Business**
  - A. Council to call a Special Meeting -2018 Budget and Tax Levy MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
  - B. Sale of Industrial Lots to Heggies-Discuss Outlot A –Set Public Hearing September 21<sup>st</sup> MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_
13. **Council Comments**  
Adjourn \_\_\_\_\_p.m. MB\_\_2<sup>nd</sup>\_\_ AIF\_\_O\_\_



## City of Milaca

### MEMO

To: Honorable Mayor and Council Members

Date: 8/17/17

Re: Agenda Overview and Comments

From: City Manager- Tammy Pfaff

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#### **Consent Agenda**

Resolution 17-29 – Personnel Policy Revisions- within the policy we will need to revise the following areas; Residency requirement, I have highlighted my findings and recommend we remove this section due to the difficulty in recruitment for staff as these positions require specialized training. On-Call Section 9; the policy previously read weekend. It was discovered by discussing this with the department head that they are and always have been on –call for the week which also included the weekend. Recommend we adapt the city policy to actual procedures with the addition of on-call pay because the employee is restricted from leaving the city limits while on call for the week. Retirement policy needed to be removed to comply with discrimination laws and I recommend this be removed. Disciplinary steps were revised as to the hearing process.

DOT and Non-DOT Drug and Alcohol testing policy is being brought before the city council for approval as this policy has not been enacted previously and is vital to protect the city from liability.

Data Request policies were previously adopted by the city council and we only need to change the responsible authority designee.

MNDOT Airport M & O Grant Contract is presented for approval.

**Citizen Open Forum-** Dave Dillan requested that we recognize individuals in our community and present them with a certificate for outstanding community service.

**PUBLIC HEARING- Reassessment of tax forfeited land for Fieldstone Greene and the adoption of Resolution 17-35 for recertification of assessments.**

**Requests and Communications-**

**Ordinances- 428 Lodging Tax –** This tax is for promotion of tourism within the city.

**Reports of Departments (I have added departments to this section)**

**Police Department** –Police Chiefs summary of activities report.

**Parks Department/Commission-** Update on Park Projects from the Mayor

**Public Works Department-**

**Planning Commission-** Council to act on the Variance request for a 3 foot setback for Dale & Beverly Clifton as per the recommendation from the Planning Commission.

**Liquor Store-**

**New Business-** Council to call a Special meeting to review the 2018 Budget and Tax Levy- I would like to have the council meet and discuss the future plans for the city at a meeting that is only designated to go over the budget in detail.

**Industrial Park-** City lots that we have for sale- Heggies would like to purchase all the industrial park lots for future expansion of his business. Outlot A was not on the list when we set prices last month and I have had discussions with Shawn and being the outlot is unbuildable and is low wetland, I recommend we offer it to him for \$1.

Respectfully submitted;

A handwritten signature in black ink, appearing to read "Tammy Pfaff". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Tammy Pfaff

City Manager

**MILACA CITY COUNCIL MINUTES  
JULY 20, 2017 MEETING**

**Call to Order Roll Call**

The regular meeting of the Milaca City Council was called to order at 6:30 p.m. by Mayor Pedersen. Upon roll call the following council members were present: Mayor Pedersen, Councilors Muller, Johnson, Dillan and Gahm:  
Councilors Absent:

Staff present: City Manager Tammy Pfaff, City Attorney Damien Toven, Police Chief Todd Quaintance.

Also Present: Northland Securities Representative George Eilertson, Stantec Engineer-Phil Gravel, Al Gruba, Roxanne and James Gerads, Steve Nelson, Deloris Katke, Patti Miller, Darryl and Mary Stimmler, John Oldenburg, Cory & Lorrie Bremer, Dale Miller, Vicki Fox, and Shawn Dockler.

**Approval of the Agenda**

On a motion by Muller seconded by Johnson, the agenda was approved. Motion carried unanimously.

**Consent Agenda**

Motion by Johnson, second by Muller, to approve the consent agenda items as follows:

- a) Minutes of the June 14th, 2017 City Council Meeting
- b) Bills for Payment
- c) Approval of Treasurer's Report
- d) Street Closure for the Mega Meet for the September 23<sup>rd</sup> event on city streets of 10<sup>th</sup> St N\_ and County Road 36 was approved for closure.
- e) Street Closure for First National Bank Celebrating 120 years requested approval from council to close 2<sup>nd</sup> Avenue SW and 2<sup>nd</sup> Street on August 25<sup>th</sup> from 2:00 p.m. to Midnight was approved for closure.
- f) IF Initiative Foundation- Annual allocation was approved for \$3,100.
- g) Resolution 17-25 Assessing Unpaid Fire Department charges in the amount of \$250.00

**Citizens Forum-** City Engineer Phil Gravel and George Eilertson were present and the mayor opened the citizen forum for the discussion of the utility improvements to 5<sup>th</sup> St. SW. Phil Gravel presented the two design options; Option 1- Gravity Water and Sewer Main- this option was discussed with the public and council as to the design of doing this process with directional boring under the street. The cost is estimated at \$535,200.

Option 2- Pressure Sewer Only- Phil presented this option for sewer only with a cost estimated at \$98,000. It was discussed that the property owner would have additional cost of estimated to be \$6,000 to \$8,000 for the pump and the cost to hook up to city sewer estimated at \$4,000.

Further discussion involved the financing of the project and George from Northland Securities. George presented information within the council packet that presented the two options of the pressure sewer cost and the gravity water and sewer financing options with assessments. Under the pressure sewer option, it was presented to be assessed at 100%, which would be an estimated annual payment to the property owner of approximately \$1,494 over a ten year period. George discussed the gravity water and sewer options with an assessment of either 30% or 50% to be assessed to the properties. George estimated the annual assessment payment to the property owner over a 15 year term would have an assessment payment of \$1,724 at 30% or an assessment payment of \$2,873 at 50%. Council stated they will keep the comment period open for two weeks and if the property owners have comments they will need to return those to city hall. The City Attorney commented that should the council wish to proceed with the project they would need to do a feasibility study, hold a public hearing and an assessment hearing.

**Public Hearing**

**Alley vacation-** The City Mayor Pedersen opened the public hearing at 7:10 p.m. The city attorney addressed the council with the documents presented before them which was Resolution 17-26 Declaring sufficiency of petition from the abutting property owners and stated that the signed petition met the requirements. Mayor Pedersen called for a motion to approve Resolution 17-26 and upon a motion by Dillan and seconded by Muller the resolution is passed. Motion carried unanimously. Mayor Pedersen then proceeded to Resolution 17-27 for the vacation of the alley. Comments from the public: None. Mayor Pedersen proceeded to call for a motion to approve Resolution 17-27 and commented that the city will retain the utility easements. Upon a motion by Dillan and seconded by Gahm the resolution is approved. Motion carried unanimously. The public hearing was then closed at 7:14 p.m.

**Requests and Communications-** Council reviewed the letter from Milaca Chamber of Commerce. The City Council reviewed the chambers request to consider the adoption of an ordinance to impose a Lodging Tax. A sample ordinance was in the council packet for review. Council was in agreement to start the proceedings to adopt the ordinance. Local establishments will be notified by the city manager and the notices will be posted. Upon a motion by Muller and seconded by Dillan the council is in favor of moving forward with the ordinance process for the lodging tax. Motion carried unanimously.

**Ordinances and Resolutions**

**Ordinance No. 427- Recreation** – Camping in city parks. The Ordinance received the first reading on June 14<sup>th</sup> and was presented with language revisions from the city attorney to be adopted at the July City Council meeting with the second reading. Mayor Pederson called for a motion, and upon a motion by Johnson and seconded by Gahm Ordinance No. 427 is adopted.

**Reports of Departments, Boards and Commissions**

**Police Department-** Council reviewed the monthly report.

**Parks Department-** Mayor Pedersen reported on the park commission meeting and the commission prioritized the projects for Rec Park. Mayor Pedersen reviewed with the council the request from the Rec Fest committee to allow the following waivers; Under 18 driving golf carts, crossing of Central Ave, Driving on the grass, premise attendance, music to be played until 10:00 p.m. on the band shell and past 10:00 p.m. at camp sites and jamming sessions, and to include camping on Thursday. The waivers were approved upon a motion by Muller and seconded by Johnson. Motion carried unanimously.

**Public Works Department-** Presented before the council and the public by the city manager is the recognition in appreciation to Steve Burklund for his 34 years of service in the Public Works Department with the City. The council approved the resignation upon a motion by Dillan and seconded by Muller. Motion carried unanimously. The council reviewed the proposal prepared by Peoples Service to contract for services to cover the needs of the city. The city manager presented the numbers and recommended the council not proceed with the contract at this time due to the amount proposed was higher than expected at \$136,740. The city manager commented that a former employee was hired back at six day a month and that we would be in a better position than were previously were a month ago. The city manager recommended that the council not proceed with the contract at this time and will place an ad for a Public Works Supervisor and in reviewing the salary surveys with the League of Minnesota Cities the city would potentially have an reduction in the budget of \$24,000 and if we were to contract with Peoples Service we would be \$61,000 over budget. The city manager stated it would be best to wait to see if we receive applications to fill the position of Public Works Supervisor. Other items presented before the council is the approval for the camera grant with the Minnesota Department of Health for the protection of the city wells. Upon a motion by Dillan and seconded by the Muller the grant is approved. Motion carried unanimously.

**Planning Commission-** Approval of Conditional Use for Lynn Schlagel- 3 new apartments. The Planning Commission has reviewed the conditional use permit and now makes the recommendation to city council to pass the conditional use for 3 new apartments. Upon a motion by Dillan and seconded by Johnson the conditional use is approved. Motion carried unanimously.

**Liquor Store-** Council reviewed the Liquor Store Policy and Procedure Manual for adoption. Upon a motion by Johnson and seconded by Dillan, the Liquor Store Policy and Procedure Manual is approved for adoption. Motion carried unanimously.

**Economic Development Commission-** Review on minutes presented.

**Airport Commission-** Review on minutes presented

**MCAT** Dillan informed the council that they have ordered plaques for the benches and flower pots. They are currently trying to get a committee together.

**Joint Powers Board with City of Braham;** Review of minutes presented.

**Safety Committee-** No meeting in July

**Unfinished Business**

**New Business**

**Approval of Temporary Off Premise On Sale Liquor License.** Jiggers requested an On-Sale temporary liquor license to be issued for August 25, 2017. A motion was introduced by Gahm to approve the liquor license. The motion was seconded by Dillan. Motion carried unanimously.

Industrial Park- Lots- Council to set prices. The city council set prices as follows;

**INDUSTRIAL PARK PROPERTIES**

PID	LEGAL	ACRES	TAX VALUE	TAXES	SELLING PRIC
21-362-0010	LOT 1 BLOCK 1 HWY 169 IND PART 1ST ADD	6.03	25900	2070	\$25,000.00
21-363-0010	LOT 1 BLOCK 1 HWY 169 IND PART 2ND ADD	2.41	23700	1106	\$20,000.00
21-363-0020	LOT 1 BLOCK 2 HWY 169 IND PART 2ND ADD	2.11	23400	1097	\$20,000.00
21-363-0030	LOT 2 BLOCK 2HWY 169 IND PART 2ND ADD	2.07	23400	1094	\$20,000.00
21-363-0040	LOT 3 BLOCK 2 HWY 169 IND PART 2ND ADD	4.58	25900	1169	\$23,000.00
21-363-0050	LOT 4 BLOCK 2 HWY 169 IND PART 2ND ADD	2.34	23600	1043	\$20,000.00
21-363-0060	LOT 5 BLOCK 2 HWY 169 IND PART 2ND ADD	2.5	23800	1106	\$20,000.00

Prices set upon a motion by Muller and seconded by Johnson. Motion carried unanimously.

**Transient Merchant Permit-** Lauma Rikmane – permit is approved upon a motion by Johnson and seconded by Dillan. Motion carried unanimously.

**Special Event Permit-** VFW Post 10794 Family Freedom Festival for Rec Park on September 30<sup>th</sup>, 2017 is approved with a fee of \$100 upon a motion by Johnson and seconded by Muller. Motion carried unanimously.

**Council Comments**

Mayor Pedersen asked the council for comments:

- Mayor Pedersen commented that he had taken a tour of CMDI.
- Gahm commented to allow the city manager to take over and manage and that we need to do policy and procedures.
- Muller commented that he also did a tour at CMDI.
- Dillan thanked both Darryl and John for taking over the Public Works Department.
- Johnson- no comments
- Mayor Pedersen commented that we need to get a new camera system in the park and that we had more vandalism.

**Adjourn**

With no other business presented before the council, a motion to adjourn was made by Johnson, second by Gahm, all present voted in favor and the meeting adjourned at 7:43 p.m.

Motion carried unanimously.

\_\_\_\_\_  
Mayor Harold Pedersen

ATTEST

\_\_\_\_\_  
Tammy Pfaff, City Manager

**CITY OF MILACA**  
**Check Summary Register**  
**10100 General Bank - ACH**

	<b>Name</b>	<b>Check Date</b>	<b>Check Amt</b>	<b>Description</b>
Paid Chk# 817164E	EFTPS-STATE TAXPAYMENT	7/25/2017	\$1,794.47	STATE W/H
Paid Chk# 817165E	EFTPS-STATE TAXPAYMENT	7/25/2017	\$146.96	STATE W/H
Paid Chk# 817172E	SELECT ACCOUNT	7/25/2017	\$2,150.00	BURKLUND-EE CONTRIBUTION
Paid Chk# 817173E	EFTPS-STATE TAXPAYMENT	8/7/2017	\$1,826.95	STATE W/H
Paid Chk# 817174E	EFTPS-STATE TAXPAYMENT	8/7/2017	\$146.96	STATE W/H
Paid Chk# 817181E	CENTERPOINT ENERGY	8/21/2017	\$387.71	NATURAL GAS
Paid Chk# 817182E	EAST CENTRAL ENERGY	8/7/2017	\$10,253.66	ELECTRIC
Paid Chk# 817183E	MILACA LOCAL LINK	8/20/2017	\$294.25	PHONE SERVICE
Paid Chk# 817184E	UNION SECURITY INSURANCE CO.	8/11/2017	\$527.73	LTD-AUG 2017
Paid Chk# 817185E	INCONTACT INC	8/30/2017	\$96.57	LONG DISTANCE SERVICE
Paid Chk# 817186E	SELECT ACCOUNT	8/11/2017	\$500.00	WEINREICH-AUG/SEPT CONTRIBUTIO
Paid Chk# 817187E	MIDCONTINENT COMMUNICATIONS	8/11/2017	\$65.00	INTERNET-
	<b>Total Checks</b>		<b>\$18,190.26</b>	

**CITY OF MILACA**  
**Check Summary Register**  
**10100 General Bank**

	<b>Name</b>	<b>Check Date</b>	<b>Check Amt</b>	<b>Description</b>
Paid Chk# 043458	AMAZON	7/25/2017	\$1,401.31	PRY BARS-POLICE
Paid Chk# 043459	BLUE CROSS BLUE SHIELD OF MINN	7/25/2017	\$10,100.76	MEDICAL INSUR-AUG 2017
Paid Chk# 043460	FAMILY HERITAGE LIFE INS CO	7/25/2017	\$135.00	SUPPL LIFE INS - JUL 2017
Paid Chk# 043461	L.E.L.S.	7/25/2017	\$245.00	POLICE UNION DUES-AUG 2017
Paid Chk# 043462	MN BENEFITS	7/25/2017	\$550.54	LIFE/DENTAL-AUG 2017
Paid Chk# 043463	TOUSIGNANT, LEW	7/25/2017	\$100.00	REC FEST SVCS
Paid Chk# 043464	USABLE LIFE	7/25/2017	\$218.70	DISABILITY/LIFE-AUG 2017
Paid Chk# 043465	VERIZON WIRELESS	7/25/2017	\$449.91	CELL PHONE SVC-JUL
Paid Chk# 043466	VERSATILE VEHICLES	7/25/2017	\$500.00	GOLF CART RENTAL-REC FEST
Paid Chk# 043467	VISA	7/25/2017	\$264.14	SHIPPING MICROMETER-WATER-CONT
Paid Chk# 043468	U.S. POSTAL SERVICE	7/27/2017	\$243.47	JULY BILLINGS
Paid Chk# 043469	FRONTIER	8/4/2017	\$898.42	PHONE SVC-DEP REG
Paid Chk# 043470	JIM'S MILLE LACS DISPOSAL	8/4/2017	\$704.00	COMPOST-JULY
Paid Chk# 043471	MILACA BLDG CENTER	8/4/2017	\$89.93	SHOP SUPPLIES-PARKS
Paid Chk# 043472	MN PUBLIC FACILITIES AUTHORITY	8/4/2017	\$165,822.15	WATER TRMT FACILITY-INTEREST
Paid Chk# 043473	MILLE LACS COUNTY RECORDER	8/8/2017	\$46.00	RECORD ALLEY VACATION
Paid Chk# 043474	AMERIPRIDE	8/17/2017	\$132.70	RUGS-LIBRARY
Paid Chk# 043475	ASPEN MILLS	8/17/2017	\$179.20	UNIFORMS-FIRE DEPT
Paid Chk# 043476	AUTO BODY TECHNICIANS	8/17/2017	\$280.20	HUSTLER MOWER PARTS-PARKS
Paid Chk# 043477	AW RESEARCH LABORATORIES	8/17/2017	\$1,027.00	TESTING-SEWER
Paid Chk# 043478	BILLINGS SERVICE	8/17/2017	\$864.89	GAS-PW
Paid Chk# 043479	CLARK EQUIPMENT CO	8/17/2017	\$31,404.23	SKID STEER LOADER-PARKS
Paid Chk# 043480	CORNER MART	8/17/2017	\$1,987.01	GAS-JP
Paid Chk# 043481	DAVES EXCAVATING	8/17/2017	\$5,680.00	REC PARK DIRT
Paid Chk# 043482	DELTA MEDICAL SUPPLY GROUP IN	8/17/2017	\$192.80	GLOVES
Paid Chk# 043483	DOVE FRETLAND PLLP	8/17/2017	\$3,585.50	CRIMINAL RETAINER-JULY
Paid Chk# 043484	E.C.M. PUBLISHERS, INC.	8/17/2017	\$551.50	ORDINANCE 427 AD
Paid Chk# 043485	EARL F. ANDERSEN, INC.	8/17/2017	\$242.70	STOP STENCIL-PW
Paid Chk# 043486	FIRE EQUIPMENT SPECIALTIES INC	8/17/2017	\$238.25	EQUIPMENT-FIRE
Paid Chk# 043487	FIRE INSTRUCTION & RESCUE ED.	8/17/2017	\$900.00	SCBA CONFIDENCE TRNG-7/25
Paid Chk# 043488	GK CONSULTING LLC	8/17/2017	\$750.00	AUG NETWORK
Paid Chk# 043489	GOPHER STATE ONE-CALL, INC.	8/17/2017	\$54.00	JULY LOCATES
Paid Chk# 043490	GRANITE ELECTRONICS	8/17/2017	\$28.80	RADIO REPAIR-FIRE
Paid Chk# 043491	GRANITE LEDGE ELECTRICAL	8/17/2017	\$220.10	OUTLET FOR FRIDGE-FIRE
Paid Chk# 043492	HABERMAN, DIONNE	8/17/2017	\$198.90	JUL 2017 OGILVIE MILEAGE
Paid Chk# 043493	HARDY AUTO PARTS	8/17/2017	\$25.21	PARTS-PW
Paid Chk# 043494	HAWKINS, INC.	8/17/2017	\$2,753.06	CHEMICALS
Paid Chk# 043495	HY-TECH AUTOMOTIVE	8/17/2017	\$1,346.92	SQUAD 11 MAINTENANCE
Paid Chk# 043496	JOHNSON JET-LINE, INC.	8/17/2017	\$3,450.00	EMERGENCY REPAIR-SEWER
Paid Chk# 043497	JONS DOOR SERVICE LLC	8/17/2017	\$375.00	GARAGE DOOR SVC-POLICE
Paid Chk# 043498	K.E.E.P.R.S.	8/17/2017	\$249.14	VEST CARRIER-RASMUSSEN
Paid Chk# 043499	KANABEC PUBLICATIONS	8/17/2017	\$77.50	HELP WANTED AD
Paid Chk# 043500	KOCH'S HARDWARE HANK	8/17/2017	\$1,300.14	SHOP SUPPLIES-PW
Paid Chk# 043501	M.D.R.A.	8/17/2017	\$30.00	P HARTMAN-2017 ANNUAL MTG
Paid Chk# 043502	M.E. PLUMBING & HEATING	8/17/2017	\$454.23	AC SERVICE-LIBRARY
Paid Chk# 043503	MARTIN, BILL & ROSE	8/17/2017	\$15.00	DEPOSIT REFUND-860 3RD AVE NW
Paid Chk# 043504	MEYER'S MILACA PARTS CITY	8/17/2017	\$55.23	PARTS-PARKS
Paid Chk# 043505	MID STATE TREE SERVICE	8/17/2017	\$550.00	TREE REMOVAL-PW

**CITY OF MILACA**  
**Check Summary Register**  
**10100 General Bank**

	<b>Name</b>	<b>Check Date</b>	<b>Check Amt</b>	<b>Description</b>
Paid Chk# 043506	MILACA AUTO VALUE	8/17/2017	\$36.47	PARTS-PARKS
Paid Chk# 043507	MILACA GENERAL RENTAL CENTER	8/17/2017	\$564.38	MINI EXCAVATOR-PARKS
Paid Chk# 043508	MILACA GOLF CLUB	8/17/2017	\$489.50	GOLF CARTS/FOOD-REC FEST
Paid Chk# 043509	MILACA UNCLAIMED FREIGHT	8/17/2017	\$26.91	SAFETY VESTS-POLICE
Paid Chk# 043510	MILLE LACS CO. SHERIFF	8/17/2017	\$389.00	LETG DYNAFORM SYS UPGRADE
Paid Chk# 043511	MILLE LACS COUNTY DAC	8/17/2017	\$375.89	CLEANING SVCS -JUNE
Paid Chk# 043512	MILLER, PATTI	8/17/2017	\$55.28	EDC SUPPLIES-7/21
Paid Chk# 043513	MN COMPUTER SYSTEMS, INC.	8/17/2017	\$38.76	COPIER MAINTENANCE-DEP REG
Paid Chk# 043514	MN DEPT MANAGEMENT & BUDGET	8/17/2017	\$60.00	ADMINISTRATIVE FINES-JULY 2017
Paid Chk# 043515	NORTHLAND FIRE PROTECTION	8/17/2017	\$63.65	FIRE EXTINGUISHER-POLICE
Paid Chk# 043516	NORTHLAND SECURITIES INC	8/17/2017	\$5,794.10	ADVISORY SVCS-2017 LIBRARY REF
Paid Chk# 043517	OLDENBURG, JOHN	8/17/2017	\$75.00	2017 ADDTL CELL PHONE REIMB
Paid Chk# 043518	QUALITY FLOW SYSTEMS	8/17/2017	\$424.50	MAIN LIFT STATION RPR
Paid Chk# 043519	RDT PROPERTIES LLC	8/17/2017	\$17,968.68	DEVELOPER 90%-TIF4-10(77)
Paid Chk# 043520	ROHMAN LAWN CARE LLC	8/17/2017	\$55.00	MOWING
Paid Chk# 043521	ROHMAN MOSQUITO & TICK	8/17/2017	\$620.00	MOSQUITO SPRAY-REC FEST
Paid Chk# 043522	STIMMLER, DARRYL	8/17/2017	\$75.00	2017 ADDTL CELL PHONE REIMB
Paid Chk# 043523	TEAL'S MARKET	8/17/2017	\$150.79	FOOD/SUPPLIES-REC FEST
Paid Chk# 043524	WIENREICH, JACOB	8/17/2017	\$125.00	2017 CELL PHONE
Paid Chk# 043525	WOODIES TOWING AND TRANSPOR	8/17/2017	\$95.00	TOW-CADILLAC ESCALADE
Paid Chk# 817146E	EFTPS-STATE TAXPAYMENT	7/11/2017	\$1,976.47	STATE W/H
Paid Chk# 817147E	EFTPS-STATE TAXPAYMENT	7/11/2017	\$146.96	STATE W/H
Paid Chk# 817154E	CENTERPOINT ENERGY	7/20/2017	\$583.58	NATURAL GAS
Paid Chk# 817155E	EAST CENTRAL ENERGY	7/7/2017	\$10,663.55	ELECTRIC
Paid Chk# 817156E	MILACA LOCAL LINK	7/20/2017	\$294.25	PHONE SERVICE
Paid Chk# 817157E	UNION SECURITY INSURANCE CO.	7/17/2017	\$599.09	LTD-JULY
Paid Chk# 817158E	MN DEPT OF REVENUE	7/17/2017	\$1,454.00	W/S SALES TAX
Paid Chk# 817159E	INCONTACT INC	7/31/2017	\$87.59	LONG DISTANCE SERVICE
Paid Chk# 817160E	MN DEPT OF LABOR & INDUSTRY	7/20/2017	\$665.38	2ND QTR SURCHARGE
Paid Chk# 817161E	MIDCONTINENT COMMUNICATIONS	7/6/2017	\$65.00	INTERNET-JULY
Paid Chk# 817162E	ENDICIA ACCOUNTING	7/6/2017	\$500.00	POSTAGE FOR METER
Paid Chk# 817163E	MII LIFE	7/3/2017	\$15,648.98	3RD QTR CONTRIBUTIONS
Paid Chk# 817164E	EFTPS-STATE TAXPAYMENT	7/25/2017	\$1,794.47	STATE W/H
Paid Chk# 817165E	EFTPS-STATE TAXPAYMENT	7/25/2017	\$146.96	STATE W/H
Paid Chk# 817172E	SELECT ACCOUNT	7/25/2017	\$2,150.00	BURKLUND-EE CONTRIBUTION
Paid Chk# 817173E	EFTPS-STATE TAXPAYMENT	8/7/2017	\$1,826.95	STATE W/H
Paid Chk# 817174E	EFTPS-STATE TAXPAYMENT	8/7/2017	\$146.96	STATE W/H
Paid Chk# 817181E	CENTERPOINT ENERGY	8/21/2017	\$387.71	NATURAL GAS
Paid Chk# 817182E	EAST CENTRAL ENERGY	8/7/2017	\$10,253.66	ELECTRIC
Paid Chk# 817183E	MILACA LOCAL LINK	8/20/2017	\$294.25	PHONE SERVICE
Paid Chk# 817184E	UNION SECURITY INSURANCE CO.	8/11/2017	\$527.73	LTD-AUG 2017
Paid Chk# 817185E	INCONTACT INC	8/30/2017	\$96.57	LONG DISTANCE SERVICE
Paid Chk# 817186E	SELECT ACCOUNT	8/11/2017	\$500.00	WEINREICH-AUG/SEPT CONTRIBUTIO
Paid Chk# 817187E	MIDCONTINENT COMMUNICATIONS	8/11/2017	\$65.00	INTERNET-
	<b>Total Checks</b>		<b>\$319,326.56</b>	

**CITY OF MILACA**  
**Check Summary Register**  
**10900 Liquor Bank - ACH**

	<b>Name</b>	<b>Check Date</b>	<b>Check Amt</b>	<b>Description</b>
Paid Chk# 917029E	EAST CENTRAL ENERGY	8/7/2017	\$2,178.64	ELECTRIC
Paid Chk# 917030E	CENTERPOINT ENERGY	8/11/2017	\$24.47	NATURAL GAS
Paid Chk# 917031E	MN DEPT OF REVENUE	8/18/2017	\$19,735.00	LIQUOR SALES TAX
Paid Chk# 917032E	MILACA, CITY OF (WATER/SEWER)	8/15/2017	\$31.43	WATER/SEWER
	<b>Total Checks</b>		<b>\$21,969.54</b>	

**CITY OF MILACA**  
**Check Summary Register**  
**10900 Liquor Bank - Checks**

	<b>Name</b>	<b>Check Date</b>	<b>Check Amt</b>	<b>Description</b>
Paid Chk# 024136	VERIZON WIRELESS	7/25/2017	\$41.52	JULY DIGITAL SIGN
Paid Chk# 024137	ARTISAN BEER COMPANY	8/2/2017	\$105.50	BEER
Paid Chk# 024138	BELLBOY CORP.	8/2/2017	\$3,542.50	WINE
Paid Chk# 024139	BERNICKS	8/2/2017	\$3,630.70	BEER
Paid Chk# 024140	BREAKTHRU BEVERAGE MN	8/2/2017	\$1,200.09	NA
Paid Chk# 024141	C & L DISTRIBUTING CO.	8/2/2017	\$31,071.02	NA
Paid Chk# 024142	DAHLHEIMER DISTRIBUTING CO.	8/2/2017	\$37,643.23	WINE
Paid Chk# 024143	FRONTIER	8/2/2017	\$143.24	AUG PHONE SVC
Paid Chk# 024144	J.J. TAYLOR DIST OF MN	8/2/2017	\$420.95	DELIVERY
Paid Chk# 024145	JOHNSON BROTHERS LIQUOR CO.	8/2/2017	\$16,005.57	DELIVERY
Paid Chk# 024146	PAUSTIS WINE CO.	8/2/2017	\$1,130.77	DELIVERY
Paid Chk# 024147	PHILLIPS WINE AND SPIRITS	8/2/2017	\$4,038.89	DELIVERY
Paid Chk# 024148	PREMIER IMPRESSIONS	8/2/2017	\$427.50	ADVERTISING
Paid Chk# 024149	SOUTHERN GLAZERS OR MN	8/2/2017	\$10,388.14	LIQUOR
Paid Chk# 024150	VINOCOPIA	8/2/2017	\$1,815.76	DELIVERY
Paid Chk# 024151	WINE MERCHANTS	8/2/2017	\$308.10	DELIVERY
Paid Chk# 024152	JIM'S MILLE LACS DISPOSAL	8/10/2017	\$86.58	REFUSE COLLECTION
Paid Chk# 024153	AMERICAN BOTTLING CO.	8/17/2017	\$171.96	NA
Paid Chk# 024154	AMERIPRIDE	8/17/2017	\$267.60	RUGS
Paid Chk# 024155	CRYSTAL SPRINGS ICE	8/17/2017	\$681.86	ICE
Paid Chk# 024156	GRANITE CITY JOBBING	8/17/2017	\$4,430.09	SUPPLIES-CREDIT
Paid Chk# 024157	GRIFFEY, LAMAR	8/17/2017	\$399.00	HIBU WEB DESIGN SVC
Paid Chk# 024158	M. AMUNDSON LLP	8/17/2017	\$3,564.88	TOBACCO
Paid Chk# 024159	MILLER TRUCKING INC.	8/17/2017	\$64.80	DELIVERY
Paid Chk# 024160	MN MUNICIPAL BEVERAGE ASSOC.	8/17/2017	\$1,700.00	ANNUAL DUES
Paid Chk# 024161	RED BULL DISTRIBUTION CO INC	8/17/2017	\$219.70	NA
Paid Chk# 024162	VIKING BOTTLING CO.	8/17/2017	\$494.21	NA
	<b>Total Checks</b>		<b>\$123,994.16</b>	

**CITY OF MILACA**  
**Council Monthly Budget Report**  
 July 2017

<b>DEPT Descr</b>	<b>2017 YTD Budget</b>	<b>2017 YTD Amt</b>	<b>Balance</b>	<b>2017 % of Budget Remain</b>
<b>Airport</b>	\$89,925.00	\$40,699.43	\$49,225.57	54.74%
<b>Assessing</b>	\$12,000.00	\$0.00	\$12,000.00	100.00%
<b>Auditing</b>	\$6,000.00	\$6,250.00	(\$250.00)	-4.17%
<b>Building Inspection</b>	\$52,495.00	\$47,396.03	\$5,098.97	9.71%
<b>City Attorney</b>	\$45,550.00	\$26,739.16	\$18,810.84	41.30%
<b>City Hall</b>	\$297,395.00	\$193,332.81	\$104,062.19	34.99%
<b>City Manager</b>	\$23,180.00	\$19,564.90	\$3,615.10	15.60%
<b>Council</b>	\$12,750.00	\$5,314.65	\$7,435.35	58.32%
<b>Elections</b>	\$0.00	\$0.00	\$0.00	0.00%
<b>Fire Dept.</b>	\$124,620.00	\$78,139.64	\$46,480.36	37.30%
<b>Historical Society</b>	\$13,000.00	\$1,926.67	\$11,073.33	85.18%
<b>Liaison Officer</b>	\$73,515.00	\$7,151.91	\$66,363.09	90.27%
<b>Libraries</b>	\$25,950.00	\$11,079.75	\$14,870.25	57.30%
<b>Ogilvie</b>	\$49,475.00	\$36,289.21	\$13,185.79	26.65%
<b>Parks</b>	\$271,480.00	\$141,351.38	\$130,128.62	47.93%
<b>Planning Comm.</b>	\$1,500.00	\$521.85	\$978.15	65.21%
<b>Police Dept.</b>	\$476,005.00	\$297,999.17	\$178,005.83	37.40%
<b>Public Works</b>	\$260,150.00	\$119,188.98	\$140,961.02	54.18%
<b>Rec Fest</b>	\$0.00	\$0.00	\$0.00	0.00%
<b>Recreation</b>	\$2,500.00	\$2,702.75	(\$202.75)	-8.11%
<b>Treasurer</b>	\$28,555.00	\$17,302.18	\$11,252.82	39.41%
<b>Unallocated</b>	\$11,045.00	\$6,877.11	\$4,167.89	37.74%
	\$1,877,090.00	\$1,059,827.58	\$817,262.42	43.54%

RESOLUTION NO. 17- 29

RESOLUTION ADOPTING PERSONNEL POLICIES  
FOR THE CITY OF MILACA

WHEREAS, the Personnel Policies of the City of Milaca had previously been adopted by ordinance; and

WHEREAS, The City Council of the City of Milaca repealed the Personnel Policy ordinance effective the 16<sup>th</sup> day of August, 2007; and

WHEREAS, it is the intention of the City Council of the City of Milaca to continue the effectiveness of the Personnel Policies (including any subsequent amendments) without any break in their application through the adoption of Personnel Policies by this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milaca that the following Personnel Policies of the City of Milaca are hereby revised and adopted by this Resolution, effective the 17<sup>th</sup> day of August, 2017:

PERSONNEL POLICIES

Section 1. PURPOSE OF PERSONNEL POLICIES. It shall be the purpose of these Personnel Policies to establish a uniform and equitable system of municipal personnel administration for all employees of the City of Milaca. These Personnel Policies are intended and designed to provide a tool for management, and not as a part of, or an amendment to any past, present or future employment contract of any officer or employee of the City of Milaca, or any other person to whom these Personnel Policies apply. It is hereby declared to be the policy of the City that:

1. The City shall recruit and select the most qualified persons for positions in the city's service. The City shall pursue a policy in the areas of recruitment and selection to insure open competition, to provide equal employment opportunity and to prohibit discrimination because of race, color, creed, religion, sex, national origin, marital status, age, status with regard to public assistance, disability, or other non-job related factors.
2. The City is committed to providing reasonable accommodations to employees and applicants with qualified disabilities in accordance with all federal, state and local laws and regulations. If any employee or applicant has a need for an accommodation he or she should contact the City Manager.
3. Just and equitable incentives and conditions of employment shall be established and maintained to promote effectiveness and economy in the operation of the City government.

4. Positions having the same duties and responsibilities shall be classified and compensated on a uniform basis.

5. Good employee morale shall be promoted by consideration of the rights and interests of employees consistent with the best interests of the public and the City government.

6. Tenure of employees shall be subject to proper conduct, the satisfactory performance of work, the availability of work, and the availability of funds.

Section 2. DEFINITIONS. For the purpose of this Resolution, the following definitions shall apply:

1. Employer: The City of Milaca

2. Permanent Employee: An employee who has successfully completed a probationary period and who has been appointed to serve on a permanent full-time or permanent part-time basis in a position so provided in the budget or otherwise expressly established by the City Council.

3. Temporary Employee: An employee who has not acquired the status of a permanent employee, and who is employed on a temporary full-time or temporary part-time basis.

4. Benefits: Privileges granted to an employee in the form of vacation leave, sick leave, holiday leaves, military leave, insurance, or severance pay.

5. Regular pay rate: An employee's hourly or monthly pay rate, excluding special allowances.

Section 3. POSITIONS COVERED BY THIS POLICY. All offices and positions in the municipal employ, now existing or hereafter created, shall be subject to the provisions of this Resolution except:

Elected officials

Members of boards and commissions

Volunteer members of the fire department, and any other volunteer personnel

City Manager

City Attorney

Employees covered by formal labor contracts with the City shall be exempt from those provisions of this Resolution which are in conflict with labor contract provisions and such employees shall be limited to the benefits provided in such labor contracts

Section 4. APPOINTMENT PROCEDURE AND CONDITIONS.

1. By City Manager. All appointments to positions in municipal service shall be made by the City Manager according to merit and fitness, consistent with the provision of any applicable state statute or local ordinance.

2. Employment of More than One Family Member. More than one family member may not be employed within the City where they routinely interact with each other in the course of business or where one may influence the work or working conditions of another; nor may relatives be placed where they will work under the direction of the same immediate supervisor. In the application of this policy, a person shall be regarded as related if such person is a brother, sister, the lineal ancestor or descendant of the prospective employee, or the husband or wife of any such brother, sister, ancestor or descendant, or the first cousin, or the spouse of the first cousin of the prospective employee.

3. **RECOMMEND TO BE REMOVED (Currently 12 Officers reside outside city limits and the city has not been impacted. Public Works has enough staff that reside in city limits to adequately cover the needs of the utility system.**

Residency Policy. There shall not be a requirement that employees live within the city limits, however it is strongly encouraged. Emergency public safety response requirements dictate that a reasonable public policy be established for peace officer and public works employee residency. It is hereby declared that within twelve months after original appointment, peace officers and public works employees shall comply with the following residency requirement:

Establish his or her residence so that the driving time between his or her residence to the Milaca Government Center will be no more than fifteen (15) minutes.

Section 5. PROMOTION FROM WITHIN THE SERVICE. It shall be the policy to fill non-management vacancies in the municipal service by promotion of permanent employees insofar as consistent with accepted management practices; to post notice of intent to fill such vacancies for five days; and, in case of equal qualifications, to give consideration to length of service.

Section 6. PROBATION PERIOD.

1. Purpose. The probationary period shall be regarded as an integral part of the examination process and shall be utilized for:

1. Closely observing employees' work
2. Securing the most effective adjustment of employees to their positions.
3. Dismissing employees who's performances do not meet required work standards.

2. Duration. All original permanent appointments shall be probationary. All employees shall be subject to a probationary period of six months service after appointment. At any time during the probationary period employees may be transferred or dismissed if their performances do not meet the requirements for the position as defined by the City Manager.

3. Applies to Promotions. Promotion shall be subject to a probationary period of six months. If employees who have been promoted are found unsuited for the work of the position to which promoted, they may be reinstated to the position and rate of pay of the position from which promoted, so long as a vacancy exists.

4. Affects Vacation Leave Benefits. During the initial probationary period, but not during a promotional probationary period, employees will not be entitled to vacation leave during the first six months of service. After six months of service employees will be entitled to vacation leave, the vacation leave to be accrued from the start of the probationary employment.

5. Completion. Immediately prior to the expiration of the probationary period, the department head shall notify the City Manager in writing whether or not the service of the employee has been satisfactory. If the employee's records and performances are satisfactory, upon approval of the City Manager, the employee shall thereupon assume the status of permanent employee at the conclusion of the probationary period. If the employee's records and/or performance are found to be unsatisfactory at any time during the probationary period, the department head shall so notify the City Manager and the City Manager may, upon written notice, terminate the employee immediately. If employee performances are found to be marginal during the probationary period, the City Manager and the respective employee may mutually agree to an extension of the probationary period to permit further possible satisfactory development.

## Section 7. COMPENSATION.

1. An employee position, classification plan, and salary structure shall be adopted and shall constitute the official compensation plan for all positions in the municipal services, except where labor agreements take precedence. The city council may amend the Employee Position and Classification Plan at any time that it deems

necessary in the interest of good personnel administration as recommended by the City Manager.

2. Any wage or salary so established shall represent 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 City Manager, no employee shall receive pay, except overtime pay, from the City in addition to which the salary authorized for the position to which the employee has been appointed.

#### Section 8. WORK PERIODS.

1. Regular Work Day and Week. Except for employees in the police department, the full-time regular work week shall be forty hours, generally five, eight hour working days, in addition to a lunch period, Monday through Friday. Supervisory personnel shall work such additional hours necessary to satisfactorily fulfill the duties of their position.

2. Police Work Year. The normal work year for sworn employees in the police department is two thousand and eighty hours (2080) to be accounted for by each employee through hours on assigned shifts, and holidays. Nothing in this section shall be interpreted to be a guarantee of a minimum or maximum number of hours the employer may assign employees.

#### Section 9. OVERTIME AND CALL BACK PAYMENT.

1. Pursuant to federal and state wage and hour laws, authorized overtime work in excess of the forty-hour workweek performed by persons other than the City Manager and exempted employees, shall be compensated for at one and one-half times their regular rate of pay. Compensatory time off for peace officers shall be taken when approved by the Chief of Police.

2. A permanent employee given less than twenty-four hours notice for a call back to duty at a time other than their normally scheduled work period shall be compensated at one and one-half times the employee's regular pay rate for hours worked outside the scheduled work period.

3. Public works employees shall be subject to a rotating "on-call" week status. The employee shall not be scheduled for work the Friday proceeding the weekend the employee is to be available for call back. The employee shall then work five hours on Saturday and three hours on Sunday. If employee is called back to work at any time during that weekend, the employee shall be compensated at one and one-half times the

employee regular pay rate. Employees shall be compensated for "on-call" week status at \$120.00 and must be available during that time for emergency call back.

Tammy can you clarify for me if the on call status is for an entire week or just 1 weekend every ??? weeks. The second sentence says "Friday proceeding the weekend the employee is to be available for call back." I just want to better understand when they are on call.

4. Employees may accumulate up to a maximum of eighty (80) hours of compensatory time in lieu of payment under Section 9.1. Compensatory time may only be used with the specific permission of the City. Employees shall only be permitted to carry over, at the end of the calendar year, forty (40) hours of compensatory time. Any hours in excess of the forty (40) hours compensatory time shall be paid to the employee, at the employee's current rate of pay, at the end of the calendar year by the Employer.

#### Section 10. VACATION LEAVE.

1. Amount allowed. All regular full-time employees of the City shall earn and be credited with paid vacation upon the following schedule. All permanent part-time employees, working an average of 24 hours or more per week, will be eligible for pro-rated vacation benefits based on hours worked. Part-time employees working less than 24 hours per week, temporary employees, and seasonal employees are not eligible for vacation benefits.

For the first year of employment, four hours per month;

Commencing with the second year of employment, six hours per month;

Commencing with the fourth year of employment, eight hours per month;

Commencing with the eighth year of employment, ten hours per month;

Commencing with the twelfth year of employment, twelve hours per month;

Commencing with the sixteenth year of employment, fourteen hours per month;

2. When Earned. Vacation leave shall not be earned by any employee during a leave of absence without pay, or time otherwise not worked or paid.

3. Accrual. An employee may accrue vacation leave to a maximum of 176 hours.

4. Termination Provisions. Employees leaving the municipal service in good standing, after having given proper notice of termination of employment shall be compensated for vacation leave accrued and unpaid, computed to the date of separation and paid at the current rate of pay.
5. Waving Vacation Prohibited. Employees shall not be permitted to waive vacation leave and receive double pay.

#### Section 11. SICK LEAVE

1. Eligibility. Sick leave with pay shall be granted to probationary and permanent employees at the rate of eight hours for each calendar month of full-time service or major fraction thereof. All permanent part-time employees, working an average of 24 hours or more per week, will be eligible for prorated sick leave benefits based on hours worked. Sick leave is granted in units of not less than two hours of a work day.
2. Probationary period. 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 probationary employment.
3. Usage. Sick leave is granted in units of not less than two hours of a work day. Sick leave shall be used normally for absence from duty because of personal illness in the immediate family. Immediate family shall mean brother, sister, parents, parents-in-law, spouse, or children of the employee.
4. Proof. To be eligible for sick leave with pay, an employee shall, (1) report as soon as possible to their department head the reason for the absence; (2) keep their department head informed of their condition; and (3) furnish a statement from a medical practitioner upon the request of the employer if the absence is more than five working days.
5. Accrual. Sick leave shall accrue at the rate of eight hours per month until 1000 hours have been accumulated. Accumulated sick leave shall not exceed 1000 hours. Hours accumulated in excess of 1000 shall be paid annually at fifty percent of the employee's regular rate of pay. Employees using earned vacation leave or sick leave shall be considered to be working for the purpose of accumulating additional sick leave.
6. Misuse Prohibited. Employees claiming sick leave when physically fit, except as otherwise specifically authorized in Section 11 (3) shall be subject to disciplinary action up to and including discharge.

7. Termination of Employment. If an employee quits, retires, or leaves city employment in good standing, the employee shall be paid for accumulated sick leave at the following rate: After ten years of full time employment, employees will be paid back at twenty percent of their salary for all accumulated sick leave. After twenty years of full-time employment, employee shall be paid back at fifty percent of their salary for all accumulated sick leave. Payment shall be calculated at the employee's current pay rate.

#### Section 12. MILITARY LEAVE.

1. Employees ordered by proper authority to National Guard or Reserve military service not exceeding fifteen days in any calendar year shall be entitled to leave of absence without loss of status. Such employees shall receive compensation from the employer equal to the difference between their regular pay rate and their lesser military pay.

2. Employees called and ordered by proper authority to active military service in time of war or other properly declared emergency shall be entitled to leave of absence without pay during such service. Upon completion of such service employee shall be entitled to the same or similar employment of like seniority, status, and pay as if such leave had not been taken, subject to the specific provisions of Chapter 192 of the Minnesota Statutes.

#### Section 13. LEAVES OF ABSENCE.

##### 1. Family and Medical Leave

###### A. Eligible Employees

An employee must have been employed by the City for at least twelve (12) months and have worked at least 1,250 hours in the twelve months preceding the commencement of the leave.

###### B. Eligible Reasons for FMLA Leave

An eligible employee is entitled to twelve (12) weeks leave during any calendar year for the following reasons:

1. Birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care. The entitlement in this case expires twelve (12) months after the birth or placement. There is no maximum age limit for adoption or foster care placement.

2. To care for a spouse, son, daughter or parent who has a serious health condition. Caring for someone includes psychological as well as physical care. It also includes acquiring care and sharing care duties.

An eligible "son or daughter" is defined as a person under 18 years of age (or a person incapable of self-care because of a physical or mental disability) who is a biological, adopted, foster or step child, a ward of the employee, or a person with whom the employee is charged with a parent's rights, duties and responsibilities.

An eligible "parent" includes a biological parent or a person who was charged with a parents rights, duties and responsibilities over the employee when the employee was under the legal age, but does not include in-laws.

3. Because of a serious health condition making the employee unable to perform the essential functions of their position. Serious health condition is defined in Federal law 29 C.F.R. 825.116, but generally includes incapacity requiring absence from work of more than three (3) days that also involves continuing treatment by a health care provider (also includes prenatal care).

C. Notice Requirement

Thirty (30) days verbal or written notice is required if the leave is foreseeable. If thirty (30) days notice is not possible, as much notice as practical must be given. Planned medical treatment should be scheduled so that it will not unduly disrupt the City's operations.

D. Effect On Health Insurance

Health insurance coverage will be maintained at the same level as if the employee continued working. Employee shall be responsible for the entire cost of premiums while on leave. Arrangements for payment must be made by the employee through the City Manager.

E. Increments Of Time

Family and medical leave may be taken in increments up to the full twelve (12) weeks and as small as one (1) hour, depending on the circumstances.

F. Use of Accrued Sick Leave, Compensatory Time and Vacation During Family And Medical Leave

During the family and medical leave, employees must use accrued sick leave, accrued vacation and compensatory time prior to taking an unpaid leave. When sick leave, accrued vacation and compensatory time have been exhausted, any remaining time will be unpaid. Unpaid hours will not count toward seniority.

G. Medical and Fitness For Duty Certifications

1. Medical Certification

Certification by the employee's physician may be required for FMLA leave due to an employee's serious health condition or that of a child, parent or spouse. A second opinion may be requested by the City. If requested, the City will pay for the cost of the second opinion and will select a health care provider not regularly associated with the City.

2. Recertification

Recertification may be required if the employee requests an extension of the original length approved by the City or if the employee's circumstances change. Recertification may also be required if there is a question as to the validity of the certification or if the employee is unable to return to work due to the serious health condition.

3. Fitness For Duty Certification

The City may require a medical certificate attesting to the employee's fitness for duty prior to return to work. The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the essential functions of the job. If fitness for duty certification is required, the City may deny reinstatement until it is provided.

The City Manager may consult with a physical or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the ADA (Americans with Disabilities Act).

H. Records Retention

Records on FMLA leave will be kept along with normal payroll records except that any medical record will be maintained separately as a confidential medical record in accordance with the law.

I. Affect on Pension

FMLA leave counts as continued service for purposes of retirement or pension plans.

J. Training

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

K. Return From FMLA Leave

Employees will return to their same position or an equivalent position upon return from FMLA leave. The employee's health insurance coverage will be reinstated at the same level without requiring a physical exam, qualifying period or exclusion of pre-existing condition.

2. Other Leaves Of Absence

Other leaves of absence without pay may be granted by the City Manager where the best interests of the City will not be harmed. Such leaves shall not exceed periods of ninety calendar days. Vacation and sick leave benefits shall not accrue during periods of leaves of absence.

3. Return to Work

Employees are obligated to return to work on the first work day following the approved leave.

4. Notice to Employer

Employees on leave must keep their immediate supervisor informed of any change in their current address.

Section 14. JURY OR WITNESS DUTY.

1. When an employee is summoned for jury duty or 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 the employee's regular pay and the jury duty or witness fee compensation received.

Section 15. REST PERIODS.

1. Full-time employees working under conditions where a break period is practical, shall be granted a fifteen minute break period in each half of the employee's shift. Each department head shall schedule rest periods so as not to interfere with work requirements.

Section 16. HOLIDAY LEAVE.

1. Holidays Defined. Holiday leave shall be granted for the following holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Post-Thanksgiving Day	Friday after Fourth Thursday in November
Christmas Eve	Three hours, only if December 24 falls on a regular work day
Christmas	December 25

2. Major Holidays. When New Year's Day, Independence Day, Veteran's Day or Christmas Day fall on Sunday, the following day shall be observed as a holiday. When they fall on Saturday, the preceding day shall be observed as a holiday. Employees absent from work on the day following or the day preceding such a three day holiday weekend without the express authorization of the City Manager shall forfeit their rights to holiday pay for that holiday.

3. Premium Pay. Employees who work a Monday through Friday work week who are required to be on duty or on call on any holiday as set out in paragraph 1 as qualified in paragraph 2, shall be paid time and one-half for the hours worked in addition to the holiday pay. Sworn Peace officers shall receive, as straight compensatory time, at January 1 of each calendar year; New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Section 17. BEREAVEMENT LEAVE.

1. Permanent employees shall receive leave with pay, in addition to those under any other provisions of this agreement, on the following basis:
  1. Three working days in the case of the death or funeral of the employee's parent, brother, sister, spouse or child.
  2. Two working days in the case of the death or funeral of the employee's mother-in-law, father -in-law, brother-in-law, sister-in-law, daughter-in-law, or son-in-law.
  3. One working day in the case of the death of a grandparent or grandchild.
  4. One-half working day in the case of the death or funeral of a fellow employee of the city.
  5. At the discretion of the City Manager, funeral leave will be granted in special instances not covered by the above, upon a personnel action request.

Section 18. HEALTH INSURANCE Permanent, full-time employees shall be eligible for the group health insurance plan offered by the City. The city shall be responsible for the entire premium cost of the employee, and shall share the cost of family coverage with the employee, with the City's portion to be determined from time to time by the City Council.

Section 19. WORKERS COMPENSATION. Pursuant to Minnesota Statutes Section 176.011, Subdivision 9, the elected officials of the City of Milaca and those municipal officers appointed for regular term of office are hereby included for the coverage of the Minnesota Workers' Compensation Act.

Section 20. RESIGNATIONS.

1. **Written Resignations Required.** To leave employment in good standing employees must submit written resignation to the employer. Such written notices must indicate the effective date of resignation and must be submitted at least fourteen calendar days before such effective date. Failure to comply with this procedure may be considered cause for denying future employment by the municipality and denial of terminal leave benefits.

2. Unauthorized Absences. Unauthorized absence from work for a period of three working days may be considered as resignation without benefits.

Section 21. LAYOFFS.

1. After fourteen calendar days prior written notice the City Manager may lay off permanent employees because of shortage of work or funds, abolition of positions, or other reasons outside the employee's control which do not reflect discredit on the service of the employee. The City Manager may lay off temporary employees with no prior notice. Except for abolition of positions, permanent employees shall not be laid off while there are temporary or probationary employees serving in the same position for which permanent employees are qualified, eligible, and available. Length of service in the same position classification shall be considered, but shall not be binding.

**REMOVE FROM POLICY**

~~Section 22. RETIREMENT POLICY.~~

~~1. General rule. Every appointed employee of the City shall automatically be retired upon reaching the age of 70 years.~~

Section 23. DISCIPLINE.

1. General. Employees may be warned, reprimanded, suspended, demoted, dismissed or subjected to other disciplinary measures. It is the policy of the City to administer disciplinary measures without discrimination.

2. Just Cause. Every disciplinary action shall be for just cause, and the employee may demand a hearing or use the grievance procedure of Section 24 with respect to any disciplinary action which the employee believes is either unjust or disproportionate to the offense committed. Just cause shall include but not be limited to evidence of any of the following:

1. Incompetence or ineffective performance of duties.
2. Involvement in the commission of any gross misdemeanor, or in the commission of any felony offense.

3. Insubordination.
4. Violation of any lawful or official rule, regulation or order, or failure to obey any lawful direction made and given by a superior.
5. Intoxication on duty or the consumption of alcoholic beverages on duty.
6. Physical or mental defect which, in the judgment of the employer, incapacitates the employee from the proper performance of their duties. (An examination by a licensed physician may be required and imposed by the employer.)
7. Wanton use of offensive conduct or language toward the public, municipal officers, superiors or fellow employees.
8. Carelessness and negligence in the handling or control of municipal property.
9. Inducing or attempting to induce an officer or employee of the municipality to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or order.
10. Soliciting or accepting any gift, gratuity, loan, reward, discount, valuable favor, or any such thing of value which is sought or offered on a basis reasonably considered to be related to City employment and not generally available to members of the general public.
11. Deliberately filing or making a false report/or official statement.
12. Proven dishonesty in the performance of duties.
13. Violations of the provisions of this these policies.
14. Holding any other public office or employment which is incompatible with City employment responsibilities.
15. Failure to report any interest arising from any relationship which may create a substantial conflict of interest with respect to official duties for the City of Milaca.

16. Sworn peace officers shall also be governed by the policy and procedure manual of the Milaca Police Department.
  17. Theft or unauthorized personal use of city property.
  18. Violation of the City's sexual harassment policy, attached to this document as an addendum.
3. Disciplinary steps. ~~Except for severe infraction,~~ Disciplinary action against any employee ~~shall may be, but is not required to be,~~ progressive and follow the steps listed below in numerical order:
1. Oral reprimand.
  2. Written reprimand. A written reprimand shall state the employee is being warned for misconduct; describe the misconduct; describe past actions taken by the supervisor to correct the problem; urge prompt correction or improvement by the employee; include time tables and goals for improvement when appropriate; and outline future penalties should the problem continue. The employee shall be given a copy of the reprimand and sign the original acknowledging that he has received the reprimand. The signature of the employee does not mean that the employee agrees with the reprimand.
  3. 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, the employee 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 personnel 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 the employee would have been entitled had the suspension not taken place.
  4. Dismissal. The City Manager may dismiss any employee after the employee is given written notice at least five working days before the effective date of the dismissal. The notice shall contain the reasons for the dismissal; the employee's rights under these rules and the veterans' preference law if the employee is a veteran; and a statement indicating that the employee may respond to the charges both orally and in writing

and that the employee may appear personally before the City Manager. The decision of the City Manager in such cases will be final.

In the case of suspension, dismissal, or demotion, the employee shall be granted a hearing before the City Manager, unless it was the City Manager that leveled the discipline, if the employee submits a written request for such hearing to the City Manager within five working days of notification of the action taken. The employee and city shall retain the right to have respective legal counsel present at the hearing. The hearing shall be held within ten working days from the date the request filed unless the City and the employee agree on an earlier or later date. If the disciplinary action involves the removal of a veteran, the hearing shall be held in accordance with Minnesota Statutes, Section 197.46. In the event it was the City Manager who leveled the discipline, a grievance filed herein, shall automatically be referred to the City Council for hearing as outlined below.

#### Section 24. GRIEVANCE POLICY.

##### 1. Definitions and Interpretations.

1. **Grievance.** A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms, conditions, and application of this policy.
2. **Representative.** The employee may be represented during any step of the procedure by any person or agent designated by such part to act on behalf of the employee.
3. **City designee.** Person or agent appointed by the Mayor to represent the employer and to act in the employer's behalf.
4. **Extension.** Time limits specified in this procedure may be extended by mutual agreement.
5. **Days.** Reference to days regarding time periods in this procedure shall refer to the employee's scheduled working days.
6. **Computation of Time.** In computing any period of time prescribed or allowed by procedures herein, the date of the act, event, or default for which the designated period of time begins to run shall be included. The last day of the period so computed shall be counted, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until

the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

7. Filing and postmark. The filing or service of any notice or document herein shall be timely if it bears a postmark of the United States mail within the time period.
  8. Waiver. If a grievance is not presented within the time limits set forth it shall be considered "waived." If a grievance or an appeal thereof within the specified time limits, the aggrieved employee and/or their representative may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the employer and the grieved employee and/or their representative.
  9. Denial of grievance. If the employer does not answer a grievance or an appeal thereof within the specified time limits, the aggrieved employee and/or their representative may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the employer and the aggrieved employee and/or their representative.
2. Adjustment of grievance. Grievances, as defined in Section 22 (1) shall be resolved in conformance with the following procedure:
1. An employee claiming a grievance shall, within fourteen (14) calendar days after such alleged violation has occurred, present such grievance in writing to the City Manager and/or the City Manager's appointed representative, and shall discuss with the City Manager the events giving rise to the grievance within fourteen (14) days of the date of filing the grievance. The City Manager shall give the employers answer in writing within seven (7) days following the meeting with the City Manager and the grieved employee and/or their respective representatives. In the event it was the City Manager who leveled the discipline, a grievance filed herein, shall automatically be referred to the City Council for hearing as outlined below.
  2. Appeal. In the event that the employee and the City Manager are unable to resolve any grievance, the grievance may be submitted to the City Council.

1. Request. to submit a grievance to the City Council, written notice signed by the aggrieved party must be filed in the office of the City Manager within ten (10) days following the decision of the City Manager.
2. Prior procedure required. No grievance shall be considered by the City Council which has not been first duly processed in accordance with the grievance procedure and appeal provisions.
3. Process. Upon the proper submission of a grievance under the terms of this procedure, the City Council, within thirty (30) days after the request, shall hear and decide the grievance.

Section 25. POLITICAL ACTIVITY. The following rules shall apply to all City employees.

1. Candidates for Public Office. Any City employee who shall become a candidate for any elective public office of the City of Milaca shall automatically be given a leave of absence without pay until they are no longer a candidate for office, and if elected, such employee shall resign upon taking office.
2. No employee of the City shall directly or indirectly, during their hours of employment, solicit or receive funds, or at any time use their authority or official influence to compel any City employee to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity.
3. Voting and Seeking Office. This section shall not be construed to prevent any employee from becoming or continuing to be a member of a political club or organization or from attendance at a political meeting or from enjoying entire freedom from all interference in casting their vote for the candidate of their choice.
4. Employees shall comply with all state and federal laws governing the political activity of local government employees, including but not limited to the Hatch Act, and Minnesota Statutes 43.28

#### ADDENDUM

#### SEXUAL HARASSMENT

The City of Milaca is committed to creating and maintaining a work place atmosphere free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964 and the Minnesota Human Rights Act.

In keeping with this commitment, the City maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment.

This policy statement is intended to make all employees sensitive to the matter of sexual harassment, to express the city's strong disapproval of unlawful sexual harassment, to advise employees of their behavioral obligations and to inform them of their rights.

In order for a sexual harassment issue to be addressed, it must be brought to the attention of management. In order for action to be taken, information must be forwarded to the appropriate level of management.

To provide the employees with a better understanding of what constitutes sexual harassment, the following definition, based on Minnesota Statutes, is provided:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

1. Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations, or public services, education or housing;
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education or housing; or
3. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational or housing environment; and in the case of employment the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

Examples of inappropriate conduct include but are not limited to: unwanted physical contact; unwelcome sexual jokes or comments; sexually explicit posters or pinups; repeated and unwelcome requests for dates or sexual favors; sexual gestures or any indication, expressed or implied, that job security or any other condition of employment depends on submission to or rejection of unwelcome sexual requests or behavior.

In summary, sexual harassment is the unwanted, unwelcome and repeated action of an individual against another individual, using sexual overtones as a means of creating stress. However, some forms of sexual harassment may be so severe that repetition is not needed for the act to be considered sexual harassment.

The City recognizes the need to educate its employees on the subject of sexual harassment and stands committed to provide information and training. All employees are expected to treat each other and the general public with respect and to assist in fostering an environment that is free from unwanted harassment.

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

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to the City Manager.

In addition to notifying the City Manager and stating, in writing, the nature of the harassment, the employee is also urged to take the following steps:

1. Make it clear to the harasser that the conduct is unwelcome and document that conversation;
2. Document the occurrences of harassment;
3. Submit the documented complaints to the City Manager;
4. Document any further harassment or reprisals that occur after the complaint is made.

Employees have the right to raise the issue of sexual harassment and file complaints with respect to such harassment without reprisal. The City recognizes that there are inherent difficulties in developing evidence and maintaining close working relationships among employees in instances where harassment has occurred. Because of this, the

City urges that conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and initial counseling, if appropriate.

Management has the obligation to provide an environment free of sexual harassment. The City of Milaca is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

The City of Milaca will, in all cases, take action to correct any reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation. All allegations will be investigated. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved to the extent possible.

Adopted this 16<sup>th</sup> day of August, 2007.

\_\_\_\_\_  
Mayor Harold Pedersen

ATTEST:

\_\_\_\_\_  
Tammy Pfaff, City Manager



RESOLUTION NO. 17-31

A RESOLUTION ASSESSING UNPAID FIRE DEPARTMENT CHARGES FOR  
SERVICE

WHEREAS the Milaca Fire Department responded to a call at 8871 190<sup>th</sup> Street on April 27, 2017 and,

WHEREAS the invoice for the service has not been paid,

NOW THEREFORE BE IT RESOLVED BY THE MILACA CITY COUNCIL, that the City Council, pursuant to Ordinance No. 368, hereby assesses the following fire department charge for service against the benefited properties for property taxes payable 2018 with a payment period of 1 (one) year and an interest rate of 7 (seven) percent.

\$250.00

Samantha Willman & Andrew Siegler  
8871 190<sup>th</sup> St.  
Milaca, MN 56353  
PID #02-004-0401

Adopted this 17<sup>th</sup> day of August, 2017.

\_\_\_\_\_  
Mayor Harold Pedersen

ATTEST

\_\_\_\_\_  
Tammy Pfaff, City Manager

## **Resolution 17-32**

### **RESOLUTION ADOPTING DOT Drug and Alcohol Testing for Commercial Drivers Policy FOR THE CITY OF MILACA**

WHEREAS, the DOT Drug and Alcohol Testing for Commercial Drivers Policy of the City of Milaca is to adopted by policy; and

WHEREAS, The City Council of the City of Milaca will adopt this policy effective the 17<sup>th</sup> day of August, 2017; and

WHEREAS, it is the intention of the City Council of the City of Milaca to continue the effectiveness of the Policies (including any subsequent amendments) without any break in their application through the adoption of Policies by this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milaca that the following DOT Drug and Alcohol Testing for Commercial Drivers Policy of the City of Milaca are hereby adopted by this Resolution, effective the 17<sup>th</sup> day of August, 2017:

### **City of Milaca, Minnesota DOT Drug and Alcohol Testing for Commercial Drivers Policy**

#### **Purpose and Objectives**

The City of Milaca ("City") has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City is concerned about providing a safe workplace for its employees, and while the City does not intend to intrude into the private lives of its employees, it is the goal to provide a work environment conducive to maximum safety and optimum work standards. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The use, possession, manufacture, sale, transportation, or other distribution of controlled substance or controlled substance paraphernalia and the unauthorized use, possession transportation, sale, or other distribution of alcohol is contrary to this policy and jeopardizes public safety.

In response to regulations issued by United States Department of Transportation ("DOT"), the City has adopted this Policy on Alcohol and Controlled Substances for employees who hold a commercial driver's license (CDL) to perform their duties.

The City also has a separate Policy on Controlled Substance and Alcohol Testing for employees not covered by DOT regulations.

Given the significant dangers of alcohol and controlled substance use, each applicant and driver must abide by this policy as a term and condition of hiring and continued employment. Moreover, federal law requires the City to implement such a policy.

To ensure this policy is clearly communicated to all drivers and applicants, and in order to comply with applicable federal law, drivers and applicants are required to review this policy and sign the "Certificate of Receipt" portion.

Because changes in applicable law and the City's practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.

Any revisions to the Federal Omnibus Transportation Employee Testing Act will take precedent over this policy to the extent the policy has not incorporated those revisions.

### **Persons Subject to Testing & Types of Tests**

All employees are subject to testing who job duties include performing "safety-sensitive duties" on City vehicles that:

1. Have a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or
2. Have a gross vehicle weight rating or gross vehicle weight of 26,0001 or more pounds whichever is greater; or
3. Are designed to transport 16 or more passengers, including the driver; or
4. Are of any size and are used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

The following functions are considered safety-sensitive:

- all time waiting to be dispatched to drive a commercial motor vehicle
- all time inspecting, servicing, or conditioning a commercial motor vehicle
- all time driving at the controls of the commercial motor vehicle
- all other time in or upon a commercial motor vehicle (except time spent resting in a sleeper berth)
- all time loading or unloading a commercial motor vehicle, attending the same, giving or receiving receipts for shipments being loaded or unloaded, or remaining in readiness to operate the vehicle
- all time repairing, obtaining assistance, or attending to a disable commercial motor vehicle.

The City may test any applicant to whom a conditional offer of employment has been made and any driver for controlled substance and alcohol under any of the following circumstances:

### **Pre-Employment Testing.**

All applicants, including current employees seeking a transfer, applying for a position where duties include performing safety-sensitive duties described above, will be required to take a drug test prior to the first time a driver performs a safety-sensitive function for the City. A driver may not perform safety-sensitive functions unless the driver has received a controlled substance test result from the Medical Review Officer ("MRO") indicating a verified negative test result. In addition to pre-employment controlled substance testing, applicants will be required to authorize in writing former employers to release alcohol test results of .04 or greater, positive controlled substance test results, refusals to test, other violations of drug and alcohol testing regulations, and completion of return to duty requirements within the preceding three years.

The City will contact the candidate's DOT regulated previous and current employers within the last three years for drug and alcohol test results as referenced above, and review the testing history if feasible before the employee first performs safety-sensitive functions for the city.

**Post-Accident Testing.**

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the City will test each surviving driver for controlled substances and alcohol when the following occurs:

- The accident involves a fatality or
- The driver receives a citation for a moving traffic violation from the accident and an injury is treated away from the accident scene or
- The driver receives a citation for a moving traffic violation from the accident and a vehicle is required to be towed from the accident scene.

The following chart summarizes when DOT post-accident testing needs to be conducted:

Type of accident involved	Citation issued to the DOT covered CDL driver?	Test must be performed by the City
i. Human fatality	YES	YES
	NO	YES
ii. Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
iii. Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

A driver subject to post-accident testing must remain readily available or the driver will be deemed to have refused to submit to testing. This requirement to remain ready for testing does not preclude a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

**Post – Accident Controlled Substance Testing**

Drivers are required to submit a urine sample for post-accident controlled substance testing as soon as possible. If the driver is not tested within thirty-two (32) hours after the accident, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not promptly administered.

**Post- Accident Alcohol Testing**

Drivers are required to submit to post-accident alcohol testing as soon as possible. After an accident, consuming alcohol is prohibited until the driver is tested. If the driver is not tested within two (2) hours after the accident, the City will prepare and maintain on file a record stating why the test was not administered within that time. If eight hours have elapsed since the accident and the driver has not submitted to an alcohol test, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not administered.

The City may accept the results of a blood or breath test in place of an alcohol test and urine test for the use of controlled substances if:

- The tests are conducted by federal, state, or local officials having independent authority for the test, and
- The tests conform to applicable federal, state, or local testing requirements, and

- The test results can be obtained by the City.

Whenever such a test is conducted by a law enforcement officer, the driver must contact the City and immediately report the existence of the test, providing the name, badge number, and telephone number of the law enforcement officer who conducted the test.

### **Random Testing.**

Every driver will be subject to unannounced alcohol and controlled substance testing on a random selection basis. Drivers will be selected for testing by use of a scientifically valid method under which each driver has an equal chance of being selected each time selections are made. These random tests will be conducted throughout the calendar year. Each driver who is notified of selection for random testing must cease performing safety-sensitive functions and report to the designated test site immediately. It is mathematically possible drivers may be selected be picked and tested more than once, and others not at all.

If a driver is selected for a random test while he or she is absent, on leave or away from work, that driver may be required to undergo the test when he or she returns to work.

For 2014, federal law requires the City to test at a rate of at least fifty percent (50%) of its average number of drivers for controlled substance each year, and to test at a rate of at least ten percent (10%) of its average number of drivers for alcohol each year. These minimum testing rates are subject to change by the DOT.

### **Reasonable Suspicion Testing.**

When a supervisor has reasonable suspicion to believe a driver has engaged in conduct prohibited by federal law or this policy, the City will require the driver to submit to an alcohol and/or controlled substance test. The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver." In the case of controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

The required observations for reasonable suspicion testing will be made by a supervisor or other person designated by the City who has received appropriate training in identification of actions, appearance and conduct of a driver which are indicative of the use of alcohol or controlled substance. These observations leading to an alcohol or controlled substance test, will be reflected in writing and signed by the supervisor who made the observations. The record will be retained by the City. The person who makes the determination that reasonable suspicion exists to conduct testing, will not be the person conducting the testing, which shall instead be conducted by another qualified person.

Alcohol testing is authorized only if the observations are made during, just before, or just after the driver has ceased performing such functions. If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not administered, and will cease attempts to conduct the alcohol test.

Notwithstanding the absence of a reasonable suspicion test, no driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol use, nor will the City permit the driver to perform or continue to perform safety-sensitive functions until (1) an alcohol test is administered and the driver's alcohol concentration is less than .02; or (2) twenty-four (24) hours have elapsed following the determination of reasonable suspicion.

### **Return-to-Duty Testing.**

The City reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers for a first positive test result. Should the City consider reinstatement of a DOT covered driver, the driver must undergo a Substance Abuse Professional ("SAP") evaluation and participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.

The employee is responsible for paying for all costs associated with the return-to-duty test. The controlled substance test will be conducted under direct observation.

#### **Follow-Up Testing.**

The City reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers.

Should the City reinstate a driver following a determination by a Substance Abuse Professional (SAP) that the driver is in need of assistance in resolving problems associated with alcohol use and/or use of controlled substance, the City will ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of such follow-up testing will be directed by the SAP and will consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines such test is no longer necessary. The employee is responsible for paying for all costs associated with follow-up tests.

Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.

#### **Cost of Required Testing.**

The City will pay for the cost of pre-employment, post-accident, random, and reasonable suspicion controlled substance and alcohol testing requested or required of all job applicants and employees. The driver must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.

#### **Required Prior Controlled Substance and Alcohol Checks for Applicants**

The City will conduct prior drug and alcohol checks of applicants for employment to drive a commercial motor vehicle. Applicants must execute a consent form authorizing the City to obtain the required information. The City will obtain (pursuant to the applicant's written consent) information on the applicant's alcohol test with a concentration result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding three (3) years which are maintained by the applicant's previous employers. The City will obtain all information concerning the applicant which is maintained by the applicant's previous employers within the preceding three (3) years pursuant to DOT and FMCSA controlled substance and alcohol testing regulations. The City will review such records, if feasible, prior to the first time a driver performs safety-sensitive functions.

#### **Prohibited Conduct**

The following conduct is explicitly prohibited by applicable DOT and FMCSA regulations and therefore constitutes violation of City policy.

**Under the influence of alcohol when reporting for duty or while on duty.**

No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02, but less than 0.04, will be removed from duty for 24 hours, escorted home and placed on vacation leave for hours missed from work.

**On-Duty Use of Alcohol.**

No driver may use alcohol while performing safety-sensitive functions.

**Pre-Duty Use of Alcohol.**

No driver may perform safety-sensitive functions within four (4) hours after using alcohol. If an employee has had alcohol within four hours they are to notify their supervisors before performing any safety-sensitive functions.

**Alcohol Use Following an Accident.**

No driver required to take a post-accident alcohol test may use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.

**Refusal to Submit to a Required Alcohol or Controlled Substance Test.**

No applicant or driver may refuse to submit to pre-employment, post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance testing.

In the event an applicant or driver does in fact refuse to submit to required alcohol or controlled substance testing, no test will be conducted. Refusal by a driver to submit to controlled substance or alcohol testing will be considered a positive test result, will cause disqualification from performing safety-sensitive functions, and may appear on the driver's permanent record. Drivers who refuse to submit to testing will be subject to discipline, up to and including termination. If an applicant refuses to submit to pre-employment controlled substance testing, any applicable conditional offer will be withdrawn.

For purposes of this section, a driver is considered to have refused to submit to an alcohol or controlled substance test when the driver:

- Fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.
- Fails to provide adequate urine for controlled substance testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing.
- Fails to report for testing within a reasonable period of time, as determined by the City.
- Fails to remain at a testing site until testing is complete.
- In the case of directly observed or monitored collection, fails to permit observation or monitoring.
- Fails or declines to take a second test as required by the City and/or collector.
- Fails to undergo a medical examination as directed by the City pursuant to federal law.
- Refuses to complete and sign the alcohol testing form, to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise cooperate in any way that prevents the completion of the testing process.
- Engages in conduct that clearly obstructs the test process.

**Altering or attempting to alter a urine sample or breath test.**

A driver altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample, will be subject to providing a specimen under direct observation. Both specimens will be subject to laboratory testing. In such case, the employee may be subject to immediate termination of employment and any job offer made to an applicant will be immediately withdrawn.

### **Controlled Substance Use.**

No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver in writing the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers must forward this information regarding therapeutic controlled substance use to the City immediately after receiving any such advice.

Having a medical marijuana card and/or a cannabis prescription from a physician does not allow anyone to use or possess that drug in the city's workplace. The federal government still classifies cannabis as an illegal drug. *There is no acceptable concentration of marijuana metabolites in the urine or blood of an employee who performs safety-sensitive duties for the City.* Employees are still subject to being tested under our policies, as well as for being disciplined, suspended or terminated after testing positive for cannabis while at work.

### **Controlled Substance Testing.**

No driver may report for duty, remain on-duty or perform a safety-sensitive function if the driver tests positive for controlled substance.

### **Collection and Testing Procedures**

Drivers are required to report immediately upon notification to the collection site. For random tests conducted off site, employees may use a City vehicle to drive to the collection site. Drivers will be expected to provide a photo ID card for identification to the collection staff. All drivers will be expected to cooperate with collection site personnel request to remove any unnecessary outer garments such as coats, sweaters or jackets and will be required to empty their pockets. Collection personnel will complete a Federal Custody and Control Form ("CCF") which drivers providing a sample will sign as well.

### **Alcohol Testing.**

Employees will be tested for alcohol just before, during, or immediately following performance of a safety-sensitive function. If a driver is also taking a DOT controlled substance test, generally speaking, the alcohol test is completed before the urine collection process begins. Screening tests for alcohol concentration will be performed utilizing a non-evidential screening device included by the National Highway Traffic Safety Administration on its conforming products list (e.g., a saliva screening device) or an evidential breath testing device ("EBT") operated by a trained breath alcohol technician ("BAT") at a collection site. An alcohol test usually takes approximately 15 minutes if the result is negative. If a driver's first attempt is positive (with an alcohol concentration of .02 or greater), the driver will be asked to wait at least 15 minutes and then be tested again. The driver may not eat, drink or place anything in his/her mouth (e.g., cigarette, chewing gum) during this time. All confirmation tests will be conducted in a location that affords privacy to the driver being tested, unless unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident) make it impracticable to provide such privacy. Any results less than 0.02 alcohol concentration is considered a "negative" test result.

If the driver attempts and fails to provide an adequate amount of breath, he/she will be referred to a physician to determine if the driver's inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the City by the collection site staff.

### **Controlled Substance Testing.**

The City will use a "split urine specimen" collection procedure for controlled substance testing. Collection of urine specimens for controlled substance testing will be conducted by an approved collector and will be conducted in a setting and manner to ensure the driver's privacy.

Controlled substance testing generally takes about 15 minutes. At the collection site, the driver will be given a sealed container and must provide at least 45 ml of urine for testing. Once the sample is provided the collection personnel will check the temperature and color and look for signs of contamination. The urine is then split into two separate specimen containers (A, or "primary," and B, or "split") with identifying labels and security seals affixed to both. The collection facility will be responsible for maintaining a proper chain of custody for delivery of the sample to a DHHS-certified laboratory for analysis. The laboratory will retain a sufficient portion of any positive sample for testing and store that portion in a scientifically-acceptable manner for a minimum 365-day period.

If an employee fails to provide a sufficient amount of urine to permit a controlled substance test (45 milliliters of urine), the collector will discard the insufficient specimen, unless there is evidence of tampering with that specimen. The collector will urge the driver to drink up to 40 ounces of fluid, distributed reasonably over a period of up to three hours, or until the driver has provided a sufficient urine specimen, whichever occurs first. If the driver has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collector will cease efforts to attempt to obtain a specimen. The driver must then obtain, within five calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. If the licensed physician concludes the driver has a medical condition, or with a high degree of probability could have, precluded the driver from providing a sufficient amount of urine, the City will consider the test to have been canceled. If a licensed physician cannot make such a determination, the City will consider the driver to have engaged in a refusal to test, and will take appropriate disciplinary action under this policy.

The primary specimen is used for the first test. If the test is negative, it is reported to the MRO who then reports the result, following a review of the CCF Form for compliance, to the City. If the initial result is positive or non-negative, a "confirmatory retest" will be conducted on the primary specimen. If the confirmatory re-test is also positive, the result will be sent to the MRO. The MRO will contact the driver to verify the positive result. If the MRO is unable to reach the driver directly, the MRO must contact the City who will direct the driver to contact the MRO.

## **Review of Test Results**

The MRO is a licensed physician with knowledge and clinical experience in substance abuse disorders, and is responsible for receiving and reviewing laboratory results of the controlled substances test as well as evaluating medical explanations for certain drug test results. Prior to making a final decision to verify a positive test result, the MRO will give the driver or the job applicant an opportunity to discuss the test result, typically through a phone call. The MRO, or a staff person under the MRO's supervision, will contact the individual directly, on a confidential basis, to determine whether the individual wishes to discuss the test result. If the employee or job applicant wishes to discuss the test result:

- The individual may be required to speak and/or meet with the MRO, who will review the individual's medical history, including any medical records provided.
- The individual will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information which may explain the positive test result. If the employee or job applicant, believes a mistake was made at the collection site, at the labor, on a chain-of-custody form, or that the drug test results are caused by lawful substance use, the employee should tell the MRO.
- If there is some new information which may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to further clarify the results; and
- A final determination will be made by the MRO that the test is either positive or negative, and the individual will be so advised.

If the MRO upholds the positive, adulterated or substituted drug determination, that test result will be provided to the City. There is no opportunity to explain a positive alcohol test provided in the DOT regulations. The driver can request the MRO to have the split specimen (the second "B" container) tested at the driver's expense. This includes all costs that may be associated with the re-test. There is no split specimen testing for an

invalid result. The driver has 72 hours after they have been notified of the positive result to make this request. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory to send the split specimen to another certified laboratory for analysis.

If an employee has not contacted the MRO within 72 hours, the employee may present information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the employee from making timely contact. If the MRO concludes there is legitimate explanation for the employee's failure to contact within 72 hours, the MRO will direct the analysis of the split specimen.

If the results of the split specimen are negative, the City may pay for all costs associated with the rest and there will be no adverse action taken against the employee or job applicant.

## **Notification of Test Results**

### **Employees.**

The City will notify a driver of the results of random, reasonable suspicion, and post-accident tests for controlled substance if the test results are verified positive, and will inform the driver which controlled substance or substances were verified as positive. Results of alcohol tests will be immediately available from the collection agent.

### **Right to Confirmatory Retest.**

Within seventy-two (72) hours after receiving notice of a positive controlled substance test result, an applicant or driver may request through the MRO a re-analysis (confirmatory retest) of the driver's split specimen. Action required by federal regulation as a result of a positive controlled substance test (e.g., removal from safety-sensitive functions) will not be stayed during retesting of the split specimen. If the result of the confirmatory retest fails to reconfirm the presence of the controlled substance(s) or controlled substance metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test.

### **Dilute Specimens**

Dilute Negatives Creatinine concentration of specimen is equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL. If the City receives information that a driver has provided a dilute negative specimen, the City will direct a recollection, pursuant to the MRO's direction, under direct observation.

Creatinine concentration of specimen is greater than 5 mg/dL. If the MRO advises the City that the employee's dilute negative specimen contains a creatinine concentration greater than five mg/dL the City will direct the driver to take a second screening test, not under direct observation. The second screening test will be performed as soon as possible after the City receives word of the dilute negative specimen.

**Note:** City can choose only to require retesting for dilute negatives where the Creatinine concentration of specimen is greater than 5 mg/dL for pre-employment testing, reasonable suspicion, post-accident, or random testing or for all of these tests.

## **Consequences for Drivers Engaging in Prohibited Conduct**

### **Job Applicants.**

Any applicable conditional offer of employment will be withdrawn from a job applicant or employee seeking a transfer who refuses to be tested or tests positive for controlled substance pursuant to this policy.

### **Employees.**

Drivers who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substance, as defined earlier in this policy, are subject to the following consequences:

- **Removal from Safety-Sensitive Functions**

No driver may perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by federal law.

No driver who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 may perform or continue to perform safety-sensitive functions for the City, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty, but not less than twenty-four (24) hours following administration of the test.

If a driver tests positive under this policy, or is found to have an alcohol concentration of .02 or greater but less than .04, the driver will be removed from safety sensitive duties and escorted home; the driver should not drive home, but be escorted to his or her home. The driver will then be placed on vacation, for hours missed from work.

- **Notification of Resources Available**

The City will advise each driver who has engaged in conduct prohibited by federal law or who has a positive alcohol or controlled substance test of the resources available to the driver, in evaluating and resolving problems associated with the misuse of alcohol and use of a controlled substance, including the names, addresses, and telephone numbers of Substance Abuse Professionals and counseling and treatment programs. The City will provide this SAP listing in writing at no cost to the driver.

- **Discipline**

The City reserves the right to impose whatever discipline the City deems appropriate in its sole discretion, up to and including termination for a first occurrence, against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers following a first positive confirmed controlled substance or alcohol test result.

- **Evaluation, and Return to Duty Testing**

Should the City wish to consider reinstatement of a driver who engaged in conduct prohibited by federal law and/or who had a positive alcohol or controlled substance test, the driver must undergo a SAP evaluation, participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP will determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use and will ensure the driver properly follows any rehabilitation program and submits to unannounced follow-up alcohol and controlled substance testing.

- **Follow-Up Testing**

If the driver passes the return-to-duty test, he/she will be subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency for such follow-up testing will be as directed by the SAP and will consist of at least six tests in the first twelve months. These tests will be conducted under direct observation.

- **Refusal to test**

All drivers and applicants have the right to refuse to take a required alcohol and/or controlled substance test. If an employee refuses to undergo testing, the employee will be considered to have tested positive and may be subject to disciplinary action, up to and including termination. Refer to Refusing to Test provided earlier in this policy.

- **Responsibility for Cost of Evaluation and Rehabilitation**

Drivers will be responsible for paying the cost of evaluation and rehabilitation (including services provided by a Substance Abuse Professional) recommended or required by the City or FMCSA or DOT rules, except to the extent that such expense is covered by an applicable employee benefit plan or imposed on the City pursuant to a collective bargaining agreement.

## **Loss of CDL License for Traffic Violations in Commercial and Personal Vehicles**

Effective August 1, 2005, the FMCSA established strict rules impacting when CDL license holders can lose their CDL for certain traffic offenses in a commercial or personal vehicle. Employees are required to notify their supervisor immediately if the status of their CDL license changes in anyway.

## **Maintenance and Disclosure of Records**

Except as required or authorized by law, the City will not release driver's information that is contained in records required to be maintained by this policy or FMCSA and DOT regulations. In addition, a driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or a controlled substance, including any records pertaining to his or her alcohol or controlled substance tests.

## **Policy Contact for Additional Information**

If you have any questions about this policy or the City's controlled substance and alcohol testing procedures, you may contact your immediate City Manager, obtain additional information.

## **Definitions**

### **Accident:**

Means an occurrence involving a commercial motor vehicle operating on a public road which results in a fatality; bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle. The term "accident" does not include an occurrence involving only boarding and alighting from a stationary motor vehicle; an occurrence involving only the loading or unloading of cargo; or an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle unless the vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 C.F.R. § 177.823; 49 C.F.R. § 382.303(a); 49 C.F.R. § 382.303(f).

### **Alcohol Concentration (or Content):**

Means the alcohol on a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. 49 C.F.R. § 382.107.

### **Alcohol Use:**

Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol. 49 C.F.R. § 382.107.

### **Applicant:**

Means a person applying to drive a commercial motor vehicle. 49 C.F.R. § 382.107.

### **Breath Alcohol Technician or BAT:**

Means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT). 49 C.F.R. § 40.3.

### **City:**

Means City of [City Name].

### **City Premises:**

Means all job sites, facilities, offices, buildings, structures, equipment, vehicles and parking areas, whether owned, leased, used or under the control of the City.

### **Collection Site:**

Means a place designated by the City where drivers present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of alcohol or controlled substances. 49 C.F.R. § 40.3.

**Commercial Motor Vehicle:**

Means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight rating or gross combination weight of 26,001 or more pounds, whoever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or (2) has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or (3) is designed to transport sixteen (16) or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulation. (49 C.F.R. part 172, subpart F) § 382.107.

**Confirmation (or Confirmatory) Test:**

For alcohol testing means a second test, following a positive non-evidential test, following a positive non-evidential (e.g., saliva) screening test or a breath alcohol screening test with the result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substance testing, "Confirmation (or Confirmatory) Test" means a second analytical procedure to identify the presence of a specific controlled substance or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. 49 C.F.R. § 382.107.

**Controlled Substance:**

Means those substances identified in 49 C.F.R. § 40.85( Marijuana, amphetamines, opiates, (including heroin), phencyclidine (PCP), cocaine, and any of their metabolites are included within this definition. 49 (C.F.R. § 382.107; 49 C.F.R. § 40.85.

**Department of Transportation or DOT:**

Means the United States Department of Transportation.

**DHHS:**

Means the Department of Health & Human Services or any designee of the Secretary, Department of Health & Human Services. 49 C.F.R. § 40.3.

**Disabling Damage:**

Means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include damage which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, headlight or tail light damage or damage to turn signals, horn or windshield wipers which make them inoperative. 49 C.F.R. § 382.107.

**Driver:**

Means any person who operates a commercial motor vehicle. This includes, but is not limited to full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to the City or who operate a commercial motor vehicle at the direction of or with the consent of the City. For purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle. 49 C.F.R. § 382.107.

**Drug:**

Has the same meaning as "controlled substance."

**Employee seeking a transfer:**

Refers to an employee who is not subject to DOT regulations seeking a transfer to a position that will subject them to DOT regulations in the sought after position.

**Evidential Breath Testing Device or EBT:**

Means a device approved by the National Highway Traffic Safety Administration (“NHTSA”) for the evidential testing of breath and placed on NHTSA’s “Conforming Products List of Evidential Breath Measurement Devices.” 49 C.F.R. § 40.3.

**Federal Motor Carrier Safety Administration or FMCSA:**

Means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

**Medical Review Officer or MRO:**

Means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by a controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information. 49 C.F.R. § 40.3

**Performing (a Safety-Sensitive Function):**

Means any period in which a driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. 49 C.F.R. § 382.107.

**Positive Test Result:**

Means a finding of the presence of alcohol or controlled substance, or their metabolites, in the sample tested in levels at or above the threshold detection levels established by applicable law.

**Reasonable Suspicion:**

Means a belief a driver has engaged in conduct prohibited by the FMCSA controlled substance and alcohol testing regulations, except when related solely to the possession of alcohol, based on specific contemporaneous, articulable observations made by a supervisor or City official who has received appropriate training concerning the appearance, behavior, speech or body odors of the driver. The determination of reasonable suspicion will be made in writing on a Reasonable Suspicion Record Form during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy. In the case of a controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

**Safety-Sensitive Function:**

Means all time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

- All time at a city plant, terminal, facility, or other property, or on any public property,
- waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment as required by 49 C.F.R. § 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 C.F.R. § 393.76);
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. 49 C.F.R. § 382.107.

**Screening Test (also known as Initial Test):**

In alcohol testing, mean an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in her or her system. Screening tests may be conducted by utilizing a non-evidential screening device included by the National Highway Traffic Administration on its conforming products list (e.g., a saliva screening device) or an evidential breath testing device (“EBT”) operated by a trained breath alcohol technician (“BAT”). In controlled substance testing, “Screening Test” means an immunoassay screen to eliminate “negative” urine specimens form further consideration. 49 C.F.R. § 382.107.

**Substance Abuse Professional” or “SAP”:**

Means a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, licensed or certified social worker, licensed or certified employee assistance professional, or licensed or certified addiction counselor (certified by the National Association of Alcoholism and Controlled Substance Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. 49 C.F.R. § 40.281.

Adopted this 17<sup>th</sup> day of August, 2017.

\_\_\_\_\_  
Mayor Harold Pedersen

ATTEST:

\_\_\_\_\_  
Tammy Pfaff, City Manager

## **Resolution 17-33**

### **RESOLUTION ADOPTING Non-DOT Drug and Alcohol Testing for Commercial Drivers Policy FOR THE CITY OF MILACA**

WHEREAS, the Non-DOT Drug and Alcohol Testing Policy of the City of Milaca is to adopted by policy; and

WHEREAS, The City Council of the City of Milaca will adopt this policy effective the 17<sup>th</sup> day of August, 2017; and

WHEREAS, it is the intention of the City Council of the City of Milaca to continue the effectiveness of the Policies (including any subsequent amendments) without any break in their application through the adoption of Policies by this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milaca that the following Non-DOT Drug and Alcohol Testing Policy of the City of Milaca are hereby adopted by this Resolution, effective the 17<sup>th</sup> day of August, 2017:

### **City of Milaca, Milaca, Minnesota Drug and Alcohol Testing and Drug-Free Workplace Act Policy for Non-Commercial Drivers (Non-DOT)**

#### **Purpose and Objectives**

The City of Milaca ("City") has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City of Milaca does not intend to intrude into the private lives of its employees, but strongly believes that a drug- and alcohol-free workplace is in the best interest of employees and the public alike. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The City of Milaca's Drug and Alcohol Testing Non-DOT policy has been established for the purpose of providing a safe workplace for all.

City employees and applicants required to hold a commercial driver's license by the United States Department of Transportation ("DOT") for their job will be tested under the City's Policy on Controlled Substance and Alcohol Testing for Commercial Drivers (the "DOT Policy"). All other employees and job applicants offered employment with the city must undergo testing as described by this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the "policy acknowledgement." A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

## **Persons Subject to Testing and Circumstances Under Which Testing May Be Required**

Under this policy, the City may test any applicant to whom an offer of employment has been made, and may test any employee for alcohol and/or controlled substance under any of the following circumstances with a properly accredited or licensed testing laboratory, in accordance with Minn. Stat. § 181.953, subd. 1.

### **(1) Pre-Employment Testing:**

Every job applicant offered employment with the city receives the offer conditioned upon successful completion of a drug test, among other conditions. If the job offer is withdrawn based on drug test results, the city will inform the applicant of the reasons for the withdrawal. A failure of the drug test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant's provisional employment has begun. A negative or positive dilute test result (following a second collection), which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

Temporary and seasonal employees are also subject to this policy. Testing will be conducted for temporary and seasonal rehires each year prior to beginning employment.

### **(2) Reasonable Suspicion Testing:**

Consistent with Minn. Stat. § 181.951, subd. 3, employees will be subject to alcohol and controlled substance testing when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol or a controlled substance; or
- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while working, while on city property, or while operating city vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or a controlled substance or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the city's policies concerning alcohol or drugs may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection service will take the urine or blood sample, and will forward the sample to an approved laboratory for testing.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all City employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify [Human Resources/the City Administrator] of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

### **(3) Treatment Program Testing:**

In accordance with Minn. Stat. § 181.951, subd. 6., the City may request or require an employee to undergo drug and alcohol testing if the employee has been referred by the City for chemical dependency treatment or

evaluation, or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

**(4) Routine Physical Examination Testing:**

The City may request or require an employee to undergo drug testing as part of a routine physical examination. The City, in accordance with Minn. Stat. § 181.951, subd. 3, will request or require this type of testing no more than once annually, and the employee will be provided with at least two weeks' written notice that the test will be required as part of the physical examination.

**(5) Random Testing:**

In accordance with Minn. Stat. § 181.951, subd. 4, the City may require an employee to submit to random testing if the employee is in a safety-sensitive position.

**Right of Refusal:**

Employees and job applicants have the right to refuse to submit to an alcohol or drug test under this policy. However, such a refusal will subject an employee to immediate termination. If an applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.

An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee is subject to immediate termination of employment, and in the case of an applicant, the job offer will be immediately withdrawn.

**Refusal on Religious Grounds:**

An employee or job applicant who, on religious grounds, refuses to undergo drug or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.

**Cost of Required Testing:**

The City will pay for the cost of all drug and alcohol testing requested or required of all job applicants and employees, with the exception of confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

**Prohibition against Controlled Substance and Alcohol**

**Use and Possession of Alcohol or Drug(s):**

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; is on City premises; while operating any City vehicle, machinery, or equipment; or when performing any city business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the-counter controlled substance used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

Besides having a zero-tolerance policy for the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils or pills) on the worksite by a person working as an employee at the

City or while “on call” and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug here. The federal government still classifies cannabis as an illegal drug, even though some states have decriminalized its possession and use. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates our equipment or vehicles or who is on one of our worksites. Applicants and employees are still subject to being tested under our drug and alcohol testing policy. And employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

**While Impaired of Alcohol or Drug(s):**

Employees are prohibited from being under the influence of alcohol or drugs or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; is on the City’s premises; while operating any city vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter controlled substance used as intended by the manufacturer.

**Driving While Impaired:**

A conviction of driving while impaired in a City-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting city business, may result in discipline, up to and including discharge.

**Criminal Controlled Substance Convictions:**

Any employee convicted of any criminal drug statute must notify his or her supervisor [and the City’s Human Resources Division/City Administrator] in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a controlled substance-related conviction, the City will take appropriate personnel action against the employee up to and including discharge, or require the employee to satisfactorily participate in a controlled substance abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the City is receiving federal grants or contracts of over \$25,000, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

**Failure to Disclose Lawful Controlled Substance:**

Employees taking a lawful controlled substance, including prescription and over-the-counter controlled substances, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee’s responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

**Review and Notification of Test Results**

**Notification of Negative Test Results:**

In the case of job applicants and in accordance with Minn. Stat. § 181.953, (Human Resources) will notify a job applicant of a negative drug result within three days of receipt of result by the City, and the hiring process will resume. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the city within three working days of the confirmatory test result. A “Negative Test Results Notification” form will be sent to the job applicant, and the job applicant may request a copy of the test result report from (Human Resources).

In the case of current employees and in accordance with Minn. Stat. § 181.953, (Human Resources) will notify the employee of a negative drug and/or alcohol result within three days of receipt of result by the city. A "Negative Test Results Notification" form will be sent to the employee, and he or she may request a copy of the test result report from (Human Resources/the City Administrator).

**Notification of Positive Test Results:**

In the event of a confirmed positive blood or urine alcohol and/or drug test result, the city will notify the employee of a positive drug and/or alcohol result within three days of receipt of the result. (Human Resources/The City Administrator) will send to the employee or job applicant a "Positive Test Results Notification" letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the City within three working days of the confirmatory test result.

**Right to Provide Information after Receiving Test Results:**

Within three working days after notice of a positive controlled substance or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the City will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.

**Right to Confirmatory Retest:**

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with Minn. Stat. § 181.953, subd. 3, the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the City's job offer will be reinstated and the City will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the City will reimburse the employee for the actual cost of the confirmatory retest.

**Access to Reports:**

In accordance with Minn. Stat. § 181.953, subd. 10, an employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.

**Dilute Specimens:**

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate termination.

## **Consequences for Employees Engaging in Prohibited Conduct**

### **Job Applicants:**

The City's conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

### **Employees:**

- **No Adverse Action without Confirmatory Test.** The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
- **Suspension Pending Test Result.** The City may temporarily suspend a tested employee with or without pay, or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the City believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home, and will be provided appropriate arrangements for return transportation to his or her residence. In accordance with Minn. Stat. § 181.953, subd. 10, an employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

### **Discipline and Discharge:**

#### **Confirmatory Positive Test Result:**

The City will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

- The City has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and
- The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

### **Other Misconduct:**

Nothing in this policy limits the right of the City to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other city personnel policies.

### **Emergency Call Back to Work Provisions:**

If an employee is called out for a City emergency and he or she reports to work and is suspected of being under the influence of drugs or alcohol, he or she will not be subject to the testing procedures of this policy, but may be subject to discipline and will not be allowed to work. Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol and/or drugs and who is called out for a City emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

### **Non-Discrimination**

The City of [City Name] policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., ch. 363, disability does not include conditions resulting from alcohol

or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of individuals.

Furthermore, the City will not retaliate against any employee for asserting his or her rights under this policy.

### **City's Employee Assistance Program**

The City has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The City's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status.

### **Policy Contact for Additional Information**

If you have any questions about this policy or the City's drug and alcohol testing procedures, you may contact your immediate supervisor, (Human Resources), or the City Manager to obtain additional information.

By this policy, the City of Milaca has established a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a drug-free workplace. Each City employee will receive a copy of this policy and will be required to read it.

### **Definitions**

**Alcohol:** Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

**Alcohol use or usage:** Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Applicant:** Means a person applying for a job with the City.

**City:** Means the City of Milaca.

**City premises:** Means, but is not limited to, all City job sites and work areas. For the purposes of this policy, city premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the City.

**City vehicle:** Means any vehicle which employees are authorized to use solely for City business when used at any time; or any vehicle owned or leased by the City when used for City business.

**Collection site:** Means a place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of controlled substances and alcohol.

**Confirmatory test:** Means a controlled substance or alcohol test on a sample to substantiate the results of a prior controlled substance or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

**Drug:** Has the same meaning as "controlled substance" defined in Minn. Stat. § 152.01, subd. 4.

**Drug and alcohol testing, drug or alcohol testing, and drug or alcohol test:** Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. §

181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested.

**Drug paraphernalia:** Has the meaning set forth in Minn. Stat. § 152.01, subd. 18.

**Employee:** Means a person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.

**Initial screening test:** Means a drug or alcohol test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

**Job applicant:** Means a person who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing drug testing.

**Positive test result:** Means a finding of the presence of alcohol, illegal drugs, or their metabolites that exceeds the cutoff levels established by the City. Minimum threshold detection levels are subject to change as determined in the City's sole discretion.

**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 an employer discretion to waive the selection of any employee selected under the mechanism.

**Reasonable suspicion:** Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

**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.

**Under the influence:** Means (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the City to conclude that the employee is impaired because of illegal drug use or alcohol use.

Adopted by the City Council on this 17th day of August, 2017

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Mayor - Harold (Pete) Pedersen

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City Manager- Tammy Pfaff

# Policy for Members of the Public Requesting Information from the City of Milaca

## Right to access public data

The Government Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public unless a state or federal law says the data are not public. Government data is a term that means all recorded information a government entity has, including paper, email, flash drives, CDs, DVDs, photographs, etc.

The Government Data Practices Act also provides that this government entity must keep all government data in a way that makes it easy for you, as a member of the public, to access public data. You have the right to look at (inspect), free of charge, all public data that we keep. You also have the right to get copies of public data. The Government Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

## How to make a data request

You can look at data, or request copies of data that this government entity keeps. Make your request for data to the appropriate individual listed in the Data Practices Contacts on page 2.

If you choose not use to use the data request form, your request should include:

- You are making a request for public data under the Government Data Practices Act (Minnesota Statutes, Chapter 13).
- Whether you would like to inspect the data, have copies of the data, or both.
- A clear description of the data you would like to inspect or have copied.

This government entity cannot require you, as a member of the public, to identify yourself or explain the reason for your data request. However, depending on how you want us to process your request (if, for example, you want us to mail you copies of data), we may need some information about you. If you choose not to give us any identifying information, we will provide you with contact information so you may check on the status of your request. In addition, please keep in mind that if we do not understand your request and have no way to contact you, we will not be able to begin processing your request.

## How we respond to a data request

Upon receiving your request, we will work to process it.

- If it is not clear what data you are requesting, we will ask you for clarification.
- If we have the data, but the data are not public, we will notify you as soon as reasonably possible and state which specific law says the data are not public.
- If we have the data, and the data are public, we will respond to your request appropriately and promptly, within a reasonable amount of time by doing one of the following:
  - Arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or

- Provide you with copies of the data as soon as reasonably possible. You may choose to pick up your copies, or we will mail or fax them to you. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format.

Information about copy charges is on page 3.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will give you an explanation if you ask.

The Government Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement (for example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request). If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

In addition, we are not required under the Government Data Practices Act to respond to questions that are not specific requests for data.

## Requests for summary data

Summary data are statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. The preparation of summary data is not a means to gain access to private or confidential data.

Upon receiving your written request – you may use the data request form on page 4 – we will respond within ten business days with the data or details of when the data will be ready and how much we will charge.

## Data Practices Contacts

Responsible Authority, Designee and Compliance Official

Tammy Pfaff  
City Manager  
255 1<sup>st</sup> St. E  
Milaca, MN 56353  
Phone: (320) 983-3141  
Fax: (320) 983-3142  
Email: TPfaff@milacacity.com

## Copy Costs – Members of the Public

This government entity charges for copies of government data. These charges are authorized under Minnesota Statutes, section 13.03, subdivision 3(c).

For 100 or fewer paper copies – 25 cents per page

100 or fewer pages of black and white, letter or legal size paper copies cost 25¢ for a one-sided copy, or 50¢ for a two-sided copy.

Most other types of copies – actual cost

The charge for most other types of copies, when a charge is not set by statute or rule, is the actual cost of searching for and retrieving the data, and making the copies or electronically transmitting the data (e.g. sending the data by email).

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

If, because of the subject matter of your request, we find it necessary for a higher-paid employee to search for and retrieve the data, we will calculate the search and retrieval portion of the copy charge at the higher salary/wage.

## Notice to Commissioner of Administration: Adoption of Model Policies

The City of Milaca has adopted the Commissioner's Model Policy for the Public and Model Policy for Data Subjects. This notice to the Commissioner satisfies the City of Milaca's obligation under Minnesota Statutes, section 13.073, subdivision 6.

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Tammy Pfaff  
City Manager

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Commissioner of Administration  
c/o Information Policy Analysis Division (IPAD)  
201 Administration Building  
50 Sherburne Avenue  
St. Paul, MN 55155  
[info.ipad@state.mn.us](mailto:info.ipad@state.mn.us)

## Data Request Form – Members of the Public

Request date:

I am requesting access to data in the following way:

- Inspection
- Copies
- Both inspection and copies

We will respond to your request as soon as reasonably possible.

### Contact information

Name:

Address

phone number

email address:

Note: You do not have to provide any contact information. However, if you want us to mail/email you copies of data, we will need some type of contact information. In addition, if we do not understand your request and need to get clarification from you, without contact information we will not be able to begin processing your request until you contact us.

These are the data I am requesting:

Describe the data you are requesting as specifically as possible.

# Policy for Data Subjects Requesting Information from the City of Milaca

## Data about you

The Government Data Practices Act (Minnesota Statutes, Chapter 13) says that data subjects have certain rights related to a government entity collecting, creating, and keeping government data about them. You are the subject of data when you can be identified from the data. Government data is a term that means all recorded information a government entity has, including paper, email, flash drives, CDs, DVDs, photographs, etc.

## Classification of data about you

The Government Data Practices Act presumes that all government data are public unless a state or federal law says that the data are not public. Data about you are classified by state law as public, private, or confidential. See below for some examples.

### Public data

We must give public data to anyone who asks. It does not matter who is asking for the data or why the person wants the data. The following is an example of public data about you:

Your name on an application for a license from the City of Milaca

### Private data

We cannot give private data to the general public, but you can have access to private data when the data are about you. We can share your private data with you, with someone who has your permission, with our government entity staff who have a work assignment to see the data, and to others as permitted by law or court order. The following is an example of private data about you:

Your Social Security number

### Confidential data

Confidential data have the most protection. Neither the public nor you can get access even when the confidential data are about you. We can share confidential data about you with our government entity staff who have a work assignment to see the data, and to others as permitted by law or court order. We cannot give you access to confidential data. The following is an example of confidential data about you:

Your identity as a mandated reporter of child neglect or abuse.

## Your rights under the Government Data Practices Act

This government entity must keep all government data in a way that makes it easy for you to access data about you. Also, we can collect and keep only those data about you that we need for administering and managing programs that are permitted by law. As a data subject, you have the following rights.

## Access to your data

You have the right to look at (inspect), free of charge, public and private data that we keep about you. You also have the right to get copies of public and private data about you. The Government Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

Also, if you ask, we will tell you whether we keep data about you and whether the data are public, private, or confidential.

As a parent, you have the right to look at and get copies of public and private data about your minor children (under the age of 18). As a legally appointed guardian, you have the right to look at and get copies of public and private data about an individual for whom you are appointed guardian.

Minors have the right to ask this government entity not to give data about them to their parent or guardian. If you are a minor, we will tell you that you have this right. We may ask you to put your request in writing and to include the reasons that we should deny your parents access to the data. We will make the final decision about your request based on your best interests. Minors do not have this right if the data in question are educational data maintained by an educational agency or institution.

## When we collect data from you

When we ask you to provide data about yourself that are not public, we must give you a notice. The notice is sometimes called a Tennessean warning. The notice controls what we do with the data that we collect from you. Usually, we can use and release the data only in the ways described in the notice.

We will ask for your written permission if we need to use or release private data about you in a different way, or if you ask us to release the data to another person. This permission is called informed consent.

## Protecting your data

The Government Data Practices Act requires us to protect your data. We have established appropriate safeguards to ensure that your data are safe.

In the unfortunate event that we determine a security breach has occurred and an unauthorized person has gained access to your data, we will notify you as required by law.

## When your data are inaccurate and/or incomplete

You have the right to challenge the accuracy and/or completeness of public and private data about you. You also have the right to appeal our decision. If you are a minor, your parent or guardian has the right to challenge data about you.

## How to make a request for your data

You can look at data, or request copies of data that this government entity keeps about you, your minor children, or an individual for whom you have been appointed legal guardian. Make your request for data to the appropriate individual listed in the Data Practices Contacts on page 4.

If you choose not use to use the data request form, your request should include:

- You are making a request, under the Government Data Practices Act (Minnesota Statutes, Chapter 13), as a data subject, for data about you.
- Whether you would like to inspect the data, have copies of the data, or both.
- A clear description of the data you would like to inspect or have copied.
- Identifying information that proves you are the data subject, or data subject's parent/guardian.

This government entity requires proof of your identity before we can respond to your request for data. If you are requesting data about your minor child, you must show proof that you are the minor's parent. If you are a guardian, you must show legal documentation of your guardianship. Please see the Standards for Verifying Identity located on page 5.

## How we respond to a data request

Once you make your request, we will work to process your request.

- If it is not clear what data you are requesting, we will ask you for clarification. If we do not have the data, we will notify you within 10 business days.
- If we have the data, but the data are confidential or private data that are not about you, we will notify you within 10 business days and state which specific law says you cannot access the data.
- If we have the data, and the data are public or private data about you, we will respond to your request within 10 business days, by doing one of the following:
  - Arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or
  - Provide you with copies of the data within 10 business days. You may choose to pick up your copies, or we will mail or fax them to you. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format.

Information about copy charges is on page 4.

After we have provided you with access to data about you, we do not have to show you the data again for 6 months unless there is a dispute or we collect or create new data about you.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will give you an explanation if you ask.

The Government Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement (for example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request). If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

In addition, we are not required under the Government Data Practices Act to respond to questions that are not specific requests for data.

## Data Practices Contacts

Responsible Authority, Designee and Compliance Official

Tammy Pfaff  
City Manager  
255 1<sup>st</sup> St. E  
Milaca, MN 56353  
Phone: (320) 983-3141  
Fax: (320) 983-3142  
Email: TPfaff@milacacity.com

## Copy Costs – Data Subjects

This government entity charges data subjects for copies of government data. These charges are authorized under Minnesota Statutes, section 13.04, subdivision 3.

### Actual cost of making the copies

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, flash drive, CD, DVD, etc.), and mailing costs (if any).

If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

## Standards for Verifying Identity

The following constitute proof of identity.

- An adult individual must provide a valid photo ID, such as
  - a state driver's license
  - a military ID
  - a passport
  - a Minnesota ID
  - a Minnesota tribal ID
- A minor individual must provide a valid photo ID, such as
  - a state driver's license
  - a military ID
  - a passport
  - a Minnesota ID
  - a Minnesota Tribal ID
  - a Minnesota school ID
- The parent or guardian of a minor must provide a valid photo ID and either
  - a certified copy of the minor's birth certificate or
  - a certified copy of documents that establish the parent or guardian's relationship to the child, such as
    - a court order relating to divorce, separation, custody, foster care
    - a foster care contract
    - an affidavit of parentage
- The legal guardian for an individual must provide a valid photo ID and a certified copy of appropriate documentation of formal or informal appointment as guardian, such as
  - court order(s)
  - valid power of attorney

Note: Individuals who do not exercise their data practices rights in person must provide either notarized or certified copies of the documents that are required or an affidavit of ID.

## Notice to Commissioner of Administration: Adoption of Model Policies

The City of Milaca has adopted the Commissioner's Model Policy for the Public and Model Policy for Data Subjects. This notice to the Commissioner satisfies the City of Milaca's obligation under Minnesota Statutes, section 13.073, subdivision 6.

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Tammy Pfaff  
City Manager

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

Commissioner of Administration  
c/o Information Policy Analysis Division (IPAD)  
201 Administration Building  
50 Sherburne Avenue  
St. Paul, MN 55155  
[info.ipad@state.mn.us](mailto:info.ipad@state.mn.us)

## Data Request Form – Data Subjects

To request data as a data subject, you must show a valid state ID, such as a driver's license, military ID, or passport as proof of identity.

Contact information

Data subject name:

Parent/Guardian name (if applicable):

Address:

Phone number

email address:

Staff verification

Request date:

Identification provided:

I am requesting access to data in the following way:

Inspection

Copies

Both inspection and copies

We will respond to your request within 10 business days.

These are the data I am requesting:

Describe the data you are requesting as specifically as possible.

**RESOLUTION 17-34**  
**AUTHORIZATION TO EXECUTE**  
**MINNESOTA DEPARTMENT OF TRANSPORTATION**  
**AIRPORT MAINTENANCE AND OPERATION GRANT CONTRACT**

It is resolved by the **City of Milaca** as follows:

1. That the state of Minnesota Contract Number **1029027**,  
"Airport Maintenance and Operation Grant Contract," at the  
**Milaca Municipal Airport** is accepted.

2. That the \_\_\_\_\_ and \_\_\_\_\_ are  
(Mayor) (City Manager, Clerk)  
authorized to execute this Contract and any amendments on behalf of the  
**City of Milaca**.

**CERTIFICATION**

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

I certify that the above Resolution is a true and correct copy of the Resolution adopted by  
the

\_\_\_\_\_  
(Name of the Recipient)

at an authorized meeting held on the 17th day of August, 2017  
as shown by the minutes of the meeting in my possession.

Signature: \_\_\_\_\_  
(City Manager)

CORPORATE SEAL

\_\_\_\_\_  
/OR/ NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



**STATE OF MINNESOTA  
AIRPORT MAINTENANCE AND OPERATION GRANT CONTRACT**

**State Project Number (S.P.): A4801-MO18**

**State Project Number (S.P.): A4801-MO19**

This contract is between the State of Minnesota, acting through its Commissioner of Transportation ("Grantor") and **City of Milaca** acting through its **City Council** ("Grantee").

**RECITALS**

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1. Minnesota Statutes §§360.015 and 360.305 authorize Grantor to provide financial assistance to airports for maintenance and operation activities.
2. Grantee owns, operates, or controls an airport ("Airport") in the state system, and Grantee desires financial assistance from the Grantor for maintenance and operation activities for State Fiscal Year 2018 and State Fiscal Year 2019.
3. Grantee assures the Grantor that Grantee will operate and maintain the airport according to the duties and obligations set forth in this Contract.

**CONTRACT TERMS**

---

**1. Term of Contract and Survival of Terms**

- 1.1 **Effective Date:** This contract will be effective on the date Grantor obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2.
- 1.2 **Expiration Date:** This contract will expire on June 30, 2019 or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms:** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this contract, including, without limitation, the following clauses: 9. Indemnification; 10. State Audits; 11. Government Data Practices; 13. Governing Law, Jurisdiction and Venue; and 14. Data Disclosure.

**2. Grantee's Duties**

- 2.1 Grantee will operate and maintain the Airport in a safe, serviceable manner for aeronautical purposes only for the use and benefit of the public.
- 2.2 The Grantee will keep the runway and the area around the lights mowed at the Airport. The grass must be mowed at least 7 feet beyond the lights, and the grass must not exceed 6 inches in height on the landing area.
- 2.3 If the Airport remains operational during the winter months, the Grantee will keep at least one runway, associated taxiway, and apron area cleared of snow and ice to the same priority as arterial roads. Snow banks must be limited in height so that aircraft wings, engines, and propellers will clear them. Landing strip markers and/or lights must remain visible.
- 2.4 If the Grantor contracts for the periodic paint striping of the Airport's runways and taxiways during the term of this Contract, the Grantee will cooperate with the marking operation. The Grantee must coordinate seal coat pavement maintenance projects with the State to maximize the pavement marking life.
- 2.5 The Grantee will allow a representative of the Grantor's Office of Aeronautics access to any area of the Airport necessary for the purpose of periodic inspections.

**3. Grantor's Assurances**

- 3.1 In accordance with Minnesota Statutes § 360.305, subdivision 4, Grantee assures the Grantor that Grantee will operate and maintain the Airport in a safe, serviceable manner for aeronautical purposes only for the use and

benefit of the public.

3.2 Grantee represents and warrants that Grantor has established a zoning authority for the Airport, and such authority has completed, or is in the process of and will complete, with due diligence, an airport zoning ordinance in accordance with Minnesota Statutes §§ 360.061 to 360.074.

#### 4. **Third-Party Contracting**

4.1 Grantee will comply with all applicable local, state, or federal laws, regulations, policies and procedures in the procurement of goods and services funded in whole or in part under this Contract.

#### 5. **Consideration and Payment**

5.1 **Consideration.** Grantor will pay for all eligible maintenance and operation costs incurred by Grantee under this Contract as follows:

5.1.1 **Basis.** Grantee will be paid for 75% of the eligible maintenance and operation costs not reimbursed by any other source, not to exceed **\$5,944.00** of state aid for each state fiscal year.

5.1.2 **Total Obligation.** The total obligation of Grantor for all compensation and reimbursements to Grantee under this contract will not exceed **\$11,888.00** [Total for both fiscal years] (**\$5,944.00** for FY2018 and **\$5,944.00** for FY2019).

#### 5.2 **Payment**

5.2.1 The Grantee must submit a reimbursement request of its eligible costs to the Director of the Office of Aeronautics on a quarterly basis. The Grantor's Office of Aeronautics will supply the reimbursement request forms which Grantee must submit. Reimbursement requests must be submitted according to the following schedule:

- In October, **No later than November 15**, for the period July 1 through September 30.
- In January, **No later than February 15**, for the period October 1 through December 31.
- In April, **No later than May 15**, for the period January 1 through March 31.
- In July, **No later than August 15**, for the period April 1 through June 30.

The Grantor reserves the right to reject items that may not be eligible for reimbursement.

#### 6. **Conditions of Payment**

6.1 All services provided by Grantee under this contract must be performed to Grantor's satisfaction, as determined at the sole discretion of Grantor's Authorized Representative and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations, including business registration requirements of the Office of the Secretary of State. Grantee will not receive payment for work found by Grantor to be unsatisfactory or performed in violation of federal, state or local law. In addition to the foregoing, Grantee will not receive payment for Airport's failure to pass periodic inspections by a representative of the Grantor's Office of Aeronautics.

#### 7. **Authorized Representatives**

7.1 **Grantor's Authorized Representative.** Grantor's Authorized Representative will be:

Jenny Bahneman, Grants Specialist  
222 East Plato Boulevard  
Saint Paul, Minnesota 55107-1618  
651-234-7240

Grantor's Authorized Representative or his /her successor, will monitor Grantee's performance and has the authority to accept or reject the services provided under this contract. If the Grantee's duties are performed in a satisfactory manner, the Grantor's Authorized Representative will certify acceptance on each reimbursement request submitted for payment.

**7.2 Grantee's Authorized Representative.** Grantee's Authorized Representative will be:

**Tammy Pfaff, City Manager**  
**255 – First Street East, Milaca, MN 56353**  
**320-983-3141**  
**tpfaff@milacacity.com**

If Grantee's Authorized Representative changes at any time during this contract, Grantee must immediately notify Grantor.

**8. Assignment, Amendments, Waiver and Contract Complete**

- 8.1 **Assignment.** Grantee may neither assign nor transfer any rights or obligations under this contract without the prior consent of Grantor and a fully executed Assignment Contract, executed and approved by the same parties who executed and approved this contract, or their successors in office.
- 8.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 8.3 **Waiver.** If Grantor fails to enforce any provision of this contract that failure does not waive the provision or Grantor's right to subsequently enforce it.
- 8.4 **Contract Complete.** This contract contains all prior negotiations and agreements between Grantor and Grantee. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

**9. Indemnification**

- 9.1 In the performance of this contract by Grantee, or Grantee's agents or employees, Grantee must indemnify, save and hold Grantor, its agents, and employees harmless from any and all claims or causes of action, including reasonable attorney's fees incurred by Grantor, to the extent caused by Grantee's: 1) intentional, willful or negligent acts or omissions; 2) breach of contract or warranty; or 3) breach of the applicable standard of care. The indemnification obligations of this section do not apply if the claim or cause of action is the result of Grantor's sole negligence. This clause will not be construed to bar any legal remedies Grantee may have for Grantor's failure to fulfill its obligation pursuant to this contract.

**10. Grantor Audits**

- 10.1 Under Minnesota Statutes §16C.05, subdivision 5, Grantee's books, records, documents and accounting procedures and practices relevant to this contract are subject to examination by Grantor, Grantor's Auditor or the Legislative Auditor, as appropriate, for a minimum of six years from the expiration date of this contract.

**11. Government Data Practices**

- 11.1 Government Data Practices. Grantee and Grantor must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by Grantor under this contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Grantee under this contract. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either Grantee or Grantor. If Grantee receives a request to release the data referred to in this Clause, Grantee must immediately notify Grantor and consult with Grantor as to how Grantee should respond to the request. Grantee's response to the request must comply with applicable law.

**12. Workers' Compensation**

- 12.1 Grantee certifies that it is in compliance with Minnesota Statutes §176.181, subdivision 2, pertaining to workers' compensation insurance coverage. Grantee's employees and agents will not be considered Grantor employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the Grantor's obligation or responsibility.

**13. Governing Law, Jurisdiction and Venue**

- 13.1 Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal

proceedings arising out of this contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**14. Data Disclosure**

14.1 Under Minnesota Statutes §270C.65, and other applicable law, Grantee consents to disclosure of its social security number, federal employer tax identification number and Minnesota tax identification number, already provided to Grantor, to federal and state agencies and state personnel involved in the payment of grantor obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring Grantee to file state tax returns and pay delinquent state tax liabilities, if any, or pay other state liabilities.

**15. Termination and Suspension**

- 15.1 **Termination by Grantor.** Grantor may cancel this contract at any time, with or without cause, upon 30 days' written notice to Grantee. Upon termination, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.
- 15.2 **Termination for Insufficient Funding.** Grantor may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to Grantee. Written notice may be transmitted by electronic means. Grantor is not obligated to pay for any services that are provided after notice and effective date of termination. However, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Grantor will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Grantor must provide Grantee notice of the lack of funding within a reasonable time of Grantor's receiving that notice.

**16. Discrimination Prohibited by Minnesota Statutes §181.59**

16.1 Grantee will comply with the provisions of Minnesota Statutes §181.59 which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to grant contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

**THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**GRANTOR ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes §16A.15 and §16C.05.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

SWIFT Contract (SC) ID No. \_\_\_\_\_

Purchase Order (PO) ID No. \_\_\_\_\_

**DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
(with delegated authority)

Title: Assistant Director

Date: \_\_\_\_\_

**GRANTEE**

Grantee certifies that the appropriate person(s) have executed Contracts on behalf of Grantee as required by applicable article bylaws or resolutions.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MnDOT CONTRACT MANAGEMENT**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**OFFICE OF FINANCIAL MANAGEMENT-GRANT UNIT  
AGENCY GRANT SUPERVISOR**

By: \_\_\_\_\_

Date: \_\_\_\_\_

# *Certificate of Award*

THIS CERTIFIES THAT

**PATTIE MURPHY**

IN RECOGNITION OF OUTSTANDING ACHIEVEMENT FOR  
**COMMUNITY SERVICE**

HAS BEEN ADMIRABLY SELECTED TO RECEIVE THIS AWARD

GIVEN AT MILACA CITY COUNCIL MEETING

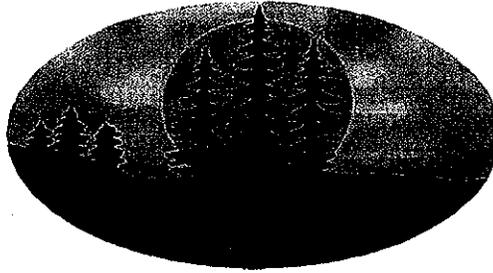
THIS 17<sup>TH</sup> DAY OF AUGUST 2017  
IN THE YEAR

SIGNATURE

SIGNATURE

# CITY OF MILACA

255 1<sup>st</sup> Street East  
Milaca MN 56353



320-983-3141  
320-983-3142 Fax

[www.cityofmilaca.org](http://www.cityofmilaca.org)

CITY OF MILACA  
PUBLIC NOTICE  
PUBLIC HEARING  
REASSESSMENT OF TAX FORFEITED LAND  
Thursday, August 17, 2017  
6:30 p.m.  
Milaca City Hall

NOTICE IS HEREBY GIVEN that the Milaca City Council will call a meeting on Thursday, August 17<sup>th</sup>, 2017, at 6:30 p.m. to conduct a PUBLIC HEARING for reassessment in the amount of \$3,000 of tax forfeited land in Fieldstone Greene for each of the following properties: Lot 2, Block 1 Owned by AllenJackson Properties LLC, Lots 3-6, Block 1 owned by JKA Properties LLC; Lot 7, Block 1 owned by Brianna L Hoskins; Lots 1,2,4,7,9,11,12, Block 2 owned by AllenJackson Properties LLC; and Lots 7-12, Block 3 owned by Rum River Developers LLC.

All persons interested are invited to attend said hearing and be heard. Written comments may be submitted to the City Manager's office 255 1<sup>st</sup> St E, Milaca MN 56353. Please call city manager's office at 320-983-3141 if you have any questions.

Tammy Pfaff  
City Manager  
City of Milaca

RESOLUTION NO. 17 – 35

RESOLUTION ADOPTING RECERTIFICATION OF ASSESSMENTS OF STREET  
IMPROVEMENTS IN FIELDSTONE GREENE

WHEREAS, pursuant to proper notice duly given as required by law, the Council has met and heard and passed upon all objections to the proposed recertification assessment for street improvement project, and has amended such proposed assessment as it deems just;

NOW THEREFORE BE IT RESOLVED by the City Council of Milaca, Minnesota, that:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, Exhibit A, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement.
2. Such assessment shall be as follows:
  - a. The assessment of \$3,000.00 shall be payable in equal annual installments extending over a period of five (5) years, the first of said installments to be payable with general taxes for the year 2018, collectible with such taxes during the year 2018.
  - b. To the first installment shall be added interest at the rate of six (6) percent per annum on the entire principal amount of the assessment from the date of this Resolution until December 31 of the year in which such installment is payable. To each subsequent installment, when due, there shall be added interest for one year at said rate on the unpaid principal amount of the assessment.
3. The owner of any property so assessed may, at any time prior to recertification of the assessment to the county auditor, pay the whole of the principal amount of the assessment on such property with interest accrued to the date of payment to the City Treasurer, except that no interest shall be charged if the entire assessment is paid by November 15, 2017. The property owner may, at any time thereafter, pay to the City Treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.
4. The City Manager shall transmit, by November 20, a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the county. Such assessments shall be collected and paid over the same manner as other municipal taxes.

Adopted this 17<sup>th</sup> day of August 17, 2017.

ATTEST

\_\_\_\_\_  
Mayor Harold Pedersen

\_\_\_\_\_  
Tammy Pfaff, City Manager

## EXHIBIT A

The area proposed to be assessed for such improvement are parcels, land, or property adjacent to the roads listed below:

PID #	LAST NAME	FIRST NAME	PROPERTY ADDRESS	CITY ST ZIP	LOT	BLOCK	AMT
21-265-0020	ALLENJACKSON PROPERTIES		1302 3RD AVE NE	MILACA MN 56353	2	1	\$3,000
21-265-0030	JKA PROPERTIES LLC		1304 3RD AVE NE	MILACA MN 56353	3	1	\$3,000
21-265-0040	JKA PROPERTIES LLC		1306 3RD AVE NE	MILACA MN 56353	4	1	\$3,000
21-265-0050	JKA PROPERTIES LLC		1308 3RD AVE NE	MILACA MN 56353	5	1	\$3,000
21-265-0060	JKA PROPERTIES LLC		1310 3RD AVE NE	MILACA MN 56353	6	1	\$3,000
21-265-0070	HOSKINS	BRIANNA L	1312 3RD AVE NE	MILACA MN 56353	7	1	\$3,000
21-265-0130	ALLENJACKSON PROPERTIES		1305 3RD AVE NE	MILACA MN 56353	1	2	\$3,000
21-265-0140	ALLENJACKSON PROPERTIES		1307 3RD AVE NE	MILACA MN 56353	2	2	\$3,000
21-265-0160	ALLENJACKSON PROPERTIES		1311 3RD AVE NE	MILACA MN 56353	4	2	\$3,000
21-265-0190	ALLENJACKSON PROPERTIES		1320 4TH AVE NE	MILACA MN 56353	7	2	\$3,000
21-265-0210	ALLENJACKSON PROPERTIES		1312 4TH AVE NE	MILACA MN 56353	9	2	\$3,000
21-265-0230	ALLENJACKSON PROPERTIES		1304 4TH AVE NE	MILACA MN 56353	11	2	\$3,000
21-265-0240	ALLENJACKSON PROPERTIES		306 13TH ST NE	MILACA MN 56353	12	2	\$3,000
21-265-0330	RUM RIVER DEVELOPERS LLC		1315 4TH AVE NE	MILACA MN 56353	7	3	\$3,000
21-265-0340	RUM RIVER DEVELOPERS LLC		1313 4TH AVE NE	MILACA MN 56353	8	3	\$3,000
21-265-0350	RUM RIVER DEVELOPERS LLC		1311 4TH AVE NE	MILACA MN 56353	9	3	\$3,000
21-265-0360	RUM RIVER DEVELOPERS LLC		1309 4TH AVE NE	MILACA MN 56353	10	3	\$3,000
21-265-0370	RUM RIVER DEVELOPERS LLC		1307 4TH AVE NE	MILACA MN 56353	11	3	\$3,000
21-265-0380	RUM RIVER DEVELOPERS LLC		1305 4TH AVE NE	MILACA MN 56353	12	3	\$3,000



## 2016 Minnesota Statutes

### 429.071 SUPPLEMENTAL ASSESSMENTS; REASSESSMENT.

Subdivision 1. **Supplemental assessments.** The council may make supplemental assessments to correct omissions, errors, or mistakes in the assessment relating to the total cost of the improvement or any other particular. A supplemental assessment shall be preceded by personal or mailed notice to the owner of each parcel included in the supplemental assessment and a hearing as provided for the original assessment.

Subd. 2. **Reassessment.** When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in event the council finds that the assessment or any part thereof is excessive or determines on advice of the municipal attorney that the assessment or proposed assessment or any part thereof is or may be invalid for any reason, the council may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such parcel or parcels.

Subd. 3. **Reapportionment upon land division.** When a tract of land against which a special assessment has been levied is thereafter divided or subdivided by plat or otherwise, the council may, on application of the owner of any part of the tract or on its own motion equitably apportion among the various lots or parcels in the tract all the installments of the assessment against the tract remaining unpaid and not then due if it determines that such apportionment will not materially impair collection of the unpaid balance of the original assessment against the tract. The council may, and if the special assessment has been pledged to the payment of improvement warrants shall, require the owner or owners, as a condition of such apportionment, to furnish a satisfactory surety bond fully protecting the municipality against any loss resulting from failure to pay any part of the reapportionment assessment when due. Notice of such apportionment and of the right to appeal shall be mailed to or personally served upon all owners of any part of the tract. Within 30 days after the mailing or service of the notice of such apportionment any such owner may appeal as provided in section 429.081.

Subd. 4. **Reassessment, tax-forfeited land.** When a parcel of tax-forfeited land is returned to private ownership and the parcel is benefited by an improvement for which special assessments were canceled because of the forfeiture, the municipality that made the improvement may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to the parcel in an amount equal to the amount remaining unpaid on the original assessment.

**History:** 1953 c 398 s 7; 1957 c 366 s 1; 1961 c 525 s 8; 1965 c 877 s 4; 1976 c 259 s 1

## 2016 Minnesota Statutes

### 429.031 PRELIMINARY PLANS, HEARINGS.

Subdivision 1. **Preparation of plans, notice of hearing.** (a) Before the municipality awards a contract for an improvement or orders it made by day labor, or before the municipality may assess any portion of the cost of an improvement to be made under a cooperative agreement with the state or another political subdivision for sharing the cost of making the improvement, the council shall hold a public hearing on the proposed improvement following two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The two publications must be a week apart, and the hearing must be at least three days after the second publication. Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel within the area proposed to be assessed and must contain a statement that a reasonable estimate of the impact of the assessment will be available at the hearing, but failure to give mailed notice or any defects in the notice does not invalidate the proceedings. For the purpose of giving mailed notice, owners are those shown as owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. For properties that are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners may be ascertained by any practicable means, and mailed notice must be given them as provided in this subdivision.

(b) Before the adoption of a resolution ordering the improvement, the council shall secure from the city engineer or some other competent person of its selection a report advising it in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible and as to whether it should best be made as proposed or in connection with some other improvement. The report must also include the estimated cost of the improvement as recommended. A reasonable estimate of the total amount to be assessed, and a description of the methodology used to calculate individual assessments for affected parcels, must be available at the hearing. No error or omission in the report invalidates the proceeding unless it materially prejudices the interests of an owner.

(c) If the report is not prepared by an employee of a municipality, the compensation for preparing the report under this subdivision must be based on the following factors:

- (1) the time and labor required;
- (2) the experience and knowledge of the preparer;
- (3) the complexity and novelty of the problems involved; and
- (4) the extent of the responsibilities assumed.

(d) The compensation must not be based primarily on a percentage of the estimated cost of the improvement.

(e) The council may also take other steps prior to the hearing, including, among other

things, the preparation of plans and specifications and the advertisement for bids that will in its judgment provide helpful information in determining the desirability and feasibility of the improvement.

(f) The hearing may be adjourned from time to time, and a resolution ordering the improvement may be adopted at any time within six months after the date of the hearing by vote of a majority of all members of the council when the improvement has been petitioned for by the owners of not less than 35 percent in frontage of the real property abutting on the streets named in the petition as the location of the improvement. When there has been no such petition, the resolution may be adopted only by vote of four-fifths of all members of the council; provided that if the mayor of the municipality is a member of the council but has no vote or votes only in case of a tie, the mayor is not deemed to be a member for the purpose of determining a four-fifths majority vote.

(g) The resolution ordering the improvement may reduce, but not increase, the extent of the improvement as stated in the notice of hearing.

**Subd. 2. Approval by park board or utilities commission.** A resolution ordering a park improvement may be adopted only by a four-fifths vote of the council and shall also be approved by the park board, if there is one; provided, that if the mayor of the municipality is a member of the council but has no vote or votes only in case of a tie, the mayor shall not be deemed to be a member for the purpose of determining such four-fifths majority vote. A resolution ordering an improvement of the water, sewer, steam heating, street lighting or other facility over which a utilities commission has jurisdiction shall also be approved by the utilities commission.

**Subd. 3. Petition by all owners.** Whenever all owners of real property abutting upon any street named as the location of any improvement shall petition the council to construct the improvement and to assess the entire cost against their property, the council may, without a public hearing, adopt a resolution determining such fact and ordering the improvement. The validity of the resolution shall not be questioned by any taxpayer or property owner or the municipality unless an action for that purpose is commenced within 30 days after adoption of the resolution as provided in section 429.036. Nothing herein prevents any property owner from questioning the amount or validity of the special assessment against the owner's property pursuant to section 429.081. In the case of a petition for the municipality to own and install a fire protection system, a pedestrian skyway system, or on-site water contaminant improvements, the petition must contain or be accompanied by an undertaking satisfactory to the city by the petitioner that the petitioner will grant the municipality the necessary property interest in the building to permit the city to enter upon the property and the building to construct, maintain, and operate the fire protection system, pedestrian skyway system, or on-site water contaminant improvements. In the case of a petition for the installation of a privately owned fire protection system, a privately owned pedestrian skyway system, or privately owned on-site water contaminant improvements, the petition shall contain the plans and specifications for the improvement, the estimated cost of the improvement and a statement indicating whether the city or the owner will contract for the construction of the improvement. If the owner is contracting for the construction of the improvement, the city shall not approve the petition until it has reviewed and approved the plans, specifications, and cost estimates contained in the petition. The construction cost financed under section 429.091 shall not

exceed the amount of the cost estimate contained in the petition. In the case of a petition for the installation of a fire protection system, a pedestrian skyway system, or on-site water contaminant improvements, the petitioner may request abandonment of the improvement at any time after it has been ordered pursuant to subdivision 1 and before contracts have been awarded for the construction of the improvement under section 429.041, subdivision 2. If such a request is received, the city council shall abandon the proceedings but in such case the petitioner shall reimburse the city for any and all expenses incurred by the city in connection with the improvement.

**History:** 1953 c 398 s 3; 1955 c 811 s 1; 1957 c 430 s 1; 1961 c 525 s 1,2; 1963 c 771 s 1; 1965 c 877 s 2; 1967 c 57 s 1,2; 1973 c 123 art 5 s 7; 1984 c 548 s 5; 1984 c 582 s 4; 1984 c 591 s 3; 1984 c 633 s 3; 1986 c 444; 1994 c 614 s 6; 1996 c 402 s 1; 2000 c 490 art 5 s 32

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As of : 7/18/2017

Parcel Number: 21-265-0130  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**

<b>Twp/City</b>	<b>School</b>
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

<b>Sect</b>	<b>Twp</b>	<b>Range</b>	<b>Lot</b>	<b>Block</b>
24	38	27	1	2

FIELDSTONE GREENE

**Property Address**

1305 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0140  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	2	2

FIELDSTONE GREENE

**Property Address**

1307 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of : **7/18/2017**

Parcel Number: **21-265-0160**  
Payable Year: **2018 Rec# 1 of 1**

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**

**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	4	2

FIELDSTONE GREENE

**Property Address**

1311 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0190  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City**      **School**  
21                      912  
**Twp/City**      21 - MILACA  
**School Dist**   912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	7	2

FIELDSTONE GREENE

**Property Address**

1320 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0210  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**

<b>Twp/City</b>	<b>School</b>
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

<b>Sect</b>	<b>Twp</b>	<b>Range</b>	<b>Lot</b>	<b>Block</b>
24	38	27	9	2

FIELDSTONE GREENE

**Property Address**

1312 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : **7/18/2017**

Parcel Number: **21-265-0230**  
Payable Year: **2018 Rec# 1 of 1**

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	11	2

FIELDSTONE GREENE

**Property Address**

1304 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0240  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City**      **School**  
21                      912  
**Twp/City**      21 - MILACA  
**School Dist**    912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	12	2

FIELDSTONE GREENE

**Property Address**

306 13TH ST NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of : 7/18/2017

Parcel Number: 21-265-0330  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #42962**  
RUM RIVER DEVELOPERS LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City**      **School**  
21                      912  
**Twp/City**      21 - MILACA  
**School Dist**   912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	7	3

FIELDSTONE GREENE

**Property Address**

1315 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of : 7/18/2017

Parcel Number: 21-265-0340  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #42962**  
RUM RIVER DEVELOPERS LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**

<b>Twp/City</b>	<b>School</b>
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

<b>Sect</b>	<b>Twp</b>	<b>Range</b>	<b>Lot</b>	<b>Block</b>
24	38	27	8	3
FIELDSTONE GREENE				

**Property Address**

1313 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0350

Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #42962**  
RUM RIVER DEVELOPERS LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	9	3

FIELDSTONE GREENE

**Property Address**

1311 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0360  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #42962**  
RUM RIVER DEVELOPERS LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**

**Twp/City School**

21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	10	3

FIELDSTONE GREENE

**Property Address**

1309 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0380  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #42962**  
RUM RIVER DEVELOPERS LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

MP #00-000-0000 Re/Mh: REAL ESTATE

<b>Twp/City</b>	<b>School</b>
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

<b>Sect</b>	<b>Twp</b>	<b>Range</b>	<b>Lot</b>	<b>Block</b>
24	38	27	12	3

FIELDSTONE GREENE

**Property Address**

1305 4TH AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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As of : 7/18/2017

Parcel Number: 21-265-0020  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #38381**  
ALLENJACKSON PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	2	1

FIELDSTONE GREENE

**Property Address**

1302 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of : 7/18/2017

Parcel Number: 21-265-0030  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #40509**  
JKA PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	3	1

FIELDSTONE GREENE

**Property Address**

1304 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of : 7/18/2017

Parcel Number: 21-265-0040  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #40509**  
JKA PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	4	1

FIELDSTONE GREENE

**Property Address**

1306 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

[Another Search](#) | [Back to ParcelList](#)

As of: 7/18/2017

Parcel Number: 21-265-0050  
Payable Year: 2018 Rec# 1 of 1[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)**Taxpayer/Owner Information**Taxpayer #40509  
JKA PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353**General**

MP #00-000-0000 Re/Mh: REAL ESTATE

Twp/City	School
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	5	1

FIELDSTONE GREENE

**Property Address**

1308 3RD AVE NE 56353

**Escrow**

0

Deeded Acres: 0.00

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As of : 7/18/2017

Parcel Number: 21-265-0060  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #40509**  
JKA PROPERTIES LLC  
157 CENTRAL AVE S  
MILACA MN 56353

**General**

MP #00-000-0000 Re/Mh: REAL ESTATE

<b>Twp/City</b>	<b>School</b>
21	912
Twp/City	21 - MILACA
School Dist	912 - MILACA SCHOOL DIST

**Description**

<b>Sect</b>	<b>Twp</b>	<b>Range</b>	<b>Lot</b>	<b>Block</b>
24	38	27	6	1
FIELDSTONE GREENE				

**Property Address**

1310 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres:** 0.00

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As of : 7/18/2017

Parcel Number: 21-265-0070  
Payable Year: 2018 Rec# 1 of 1

[General Information](#) | [Value Information](#) | [Special Asmts](#) | [Ditch](#) | [Sales](#) | [History](#) | [Appraisal Summary](#)

**Taxpayer/Owner Information**

**Taxpayer #40836**  
HOSKINS/BRIANNA L  
19099 IVY RD  
MILACA MN 56353

**General**

**MP #00-000-0000 Re/Mh: REAL ESTATE**  
**Twp/City School**  
21 912  
Twp/City 21 - MILACA  
School Dist 912 - MILACA SCHOOL DIST

**Description**

Sect	Twp	Range	Lot	Block
24	38	27	7	1

FIELDSTONE GREENE

**Property Address**

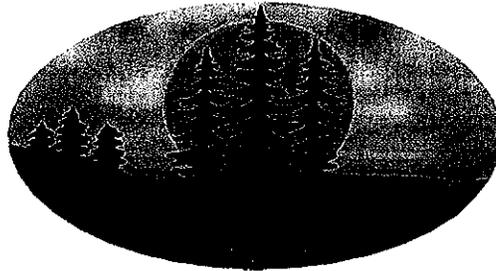
1312 3RD AVE NE 56353

**Escrow**

0

**Deeded Acres: 0.00**

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**CITY OF MILACA  
PUBLIC NOTICE**

**AN ORDINANCE ESTABLISHING A TAX ON THE CONSIDERATION PAID FOR  
LODGING WITHIN THE CITY OF MILACA**

Thursday, August 17, 2017

6:30 p.m.

Milaca City Hall

NOTICE IS HEREBY GIVEN that the Milaca City Council will call a meeting on Thursday, August 17th, 2017, at 6:30 p.m., to conduct the review and first reading on;

**AN ORDINANCE ESTABLISHING A TAX ON THE CONSIDERATION PAID FOR LODGING WITHIN THE CITY OF MILACA**

All persons interested are invited to attend said council meeting. Written comments may be submitted to the City Manager's office 255 First Street East, Milaca Minnesota 56353. Please contact the City Manager's office at, 320-983-3141 if you have any questions.

Tammy Pfaff  
City Manager  
City of Milaca

Public Notice posted on city website and city notice board this 31<sup>st</sup> day of July, 2017

ORDINANCE NO. XXX  
CITY OF MILACA, MINNESOTA

AN ORDINANCE ESTABLISHING A TAX ON THE CONSIDERTION  
PAID FOR LODGING WITHIN THE CITY OF MILACA

The City Council of Milaca does herby ordain:

1. DEFINITIONS.
  - A. LODGING FACILITY. Any hotel, motel, rooming house, tourist court or resort within the city.
  - B. LODGING INCOME. The gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, except the renting or leasing to a person or entity for more than 29 continuous days.
  - C. OPERATOR. The person who is the proprietor or who otherwise has control of a facility providing lodging, whether in the capacity of owner, lessee, sublessee, licensee, or in any other capacity.
2. REGISTERING TO PAY TAX. Each and every lodging facility hereafter commencing business, or engaging in any activity generating lodging income shall file with the Clerk notice of that operation, including the name and address of same, the nature of the operation, the number or rooms open for use by the public, and a schedule of the rate(s) for said rooms.
3. IMPOSITION OF TAX. There is herby imposed a 3% tax on the total lodging income of any lodging facility, received after the effective date of this ordinance.
4. EXEMPTIONS. No tax shall be imposed for lodging paid by any officer or employee of a foreign government expressly exempt under federal or international law, nor by person to whom or whose occupancy is beyond the authority of this ordinance to tax. Further, no tax shall be imposed for lodging paid by a third party or the employee of a third party pursuant to a long-term contract between a lodging facility and a third party that was in existence prior to the effective date of this ordinance. No exemption shall be honored unless it is documented in writing, under the penalty of perjury.
5. COLLECTION OF TAX. Each operator shall impose and collect said tax at time of receipt of any income from lodging. All taxes so collected shall be held in trust by the operator for the benefit of the City.

6. NOTICE OF TAX. Each operator shall state the amount of the tax separately from the amount charged for lodging for each collection.
7. ADVERTISING NO TAX PROHIBITED. It shall be unlawful for an operator to advertise or hold out to the public or any person, directly or indirectly, that the tax here imposed, or any part of same will be assumed or absorbed by the operator, or that it will not be added to the lodging charge, or that any portion of same will be refunded.
8. PAYMENT OF TAX. Each operator shall pay the tax collected for each calendar month, to be paid no later than the 20<sup>th</sup> day following the month of, payable to the City, or to such entity as is authorized in writing by the City.
9. TAX RETURNS. At the time of each payment, each operator shall submit therewith a written return, furnished by the City, containing the following information for each reporting period:
  - A. The reporting period, with beginning and ending dates.
  - B. The itemized amount, if any, of lodging income that was not paid due to dishonored checks, credit card disputes, etc.
  - C. The total amount of exemptions, if any, with supporting documentation.
  - D. The total amount of lodging income actually received.
  - E. The amount of tax collected.
  - F. Any adjustments resulting from the curing or correction of items previously reported under B above.

Operators shall retain their returns for a period of three (3) years after their due date.

10. EXAMINATION OF RETURNS. The city shall examine each return for accuracy, and may conduct such further examinations and/or investigations deemed appropriate to assure that accuracy. Any deficient tax, or any over payment, shall be due and payable within 20 days of determination and notice of same.
11. FAILURE TO FILE A RETURN; FALSE RETURNS. If any operator fails to file a required return within the time prescribed, or shall, willfully or otherwise, file an incorrect, false or fraudulent return, the operator shall within 5 days of the receipt of written notice thereof file the required return, or a corrected return, and shall submit therewith any tax due.

If an operator fails to file the required return, or the corrected return, the City may prepare such return, base upon such knowledge and information that is available, and forward same to the operator, with a demand for the tax due. Unless objected to in writing within said 5 day period, the return prepared by the City shall be deemed valid and correct, and the operator shall have the burden of establishing that it is incorrect in any action or proceeding for the collection of same.

12. PENALTIES ON TAX.

- A. FAILURE TO PAY WHEN DUE. If any taxes imposed by this ordinance are not paid within the prescribed time, or any extension thereof, there shall be added thereto a penalty equal to 10% of any amount remaining so unpaid.
- B. FAILURE TO FILE RETURN. Should any person fail to timely file a return required by this ordinance, and it is shown that such failure is not due to willful neglect, then upon the filing of such return and the payment of the tax there shall be added thereto and paid therewith the sum of:
  - 1. Ten percent (10%), if paid within 30 days of the due date.
  - 2. An additional 5% for each additional 30 days, or part thereof, from the due date.

The minimum penalty shall be \$10, irrespective of the calculation.

- C. FALSE AND/OR FRAUDULENT RETURNS. If any person willfully files a false or fraudulent return, or willfully attempts in any manner to defeat, evade or unlawfully minimize any tax herein imposed, or any penalty thereon, there shall be imposed a penalty equal to 50% of any amount due, less any amounts actually paid, in addition to any other penalties imposed herein.

All payments due under this section shall be applied first to the penalties due, the balance to the tax.

- 13. REFUNDS. Any person may apply in writing for a refund of any tax paid in excess of the amount legally due for a given reporting period; provided, no such application shall be valid unless filed within 1 year of the date the tax was paid by the operator. The application shall set forth in detail all facts, accompanied by all relevant documents justifying the refund. If a refund is due, same shall be submitted to the applicant within 20 days of the date of that determination. If the application is denied, the applicant shall be so informed in writing, by certified mail.
- 14. ADMINISTRATION. The Clerk shall administer, implement and enforce the assessment and collections of taxes and penalties imposed by this ordinance, and shall prepare and provide forms for returns and other documents necessary or incidental thereto and furnish them to all lodge facilities. The failure to deliver such forms shall not relieve any person from the obligations to pay the taxes herein required.

The Clerk may examine the books, papers and records of any operator in order to verify the necessity of payment, or the accuracy of any payment required under this ordinance. Every operator of a lodging facility is hereby directed and required to provide the Clerk with the means, facilities and opportunity for such examinations.

In the event arrangements are made for the administration, implementation and enforcement of the provisions of this ordinance with an agent, or another entity, notice of that fact to a lodging facility shall require each such facility to comply and cooperate with such agency, or entity, in all respects and for all purposes.

15. CRIMINAL PENALTIES. Any person or entity who or which shall willfully fail or refuse to pay any tax or penalty herein imposed, after written demand for same, or who shall refuse to permit the examination of the books, records, and papers in its possession, or under its control, or who willfully makes an incomplete, false or fraudulent return, shall be guilty of a misdemeanor.

If found guilty, any tax and/or penalty due shall be required and paid as restitution as part of any such proceedings.

16. USE OF PROCEEDS. All of the proceeds obtained from the collection of taxes/or penalties herein shall be used in accordance M.S.469.190, as the same may be amended from time to time.

17. SAVINGS CLAUSE. Should a court of competent jurisdiction find any term, section or provision of this ordinance unlawful, such finding shall not void or invalidate any other part hereof.

This ordinance shall take effect on the date of its adoption September 1<sup>st</sup>, 2017.

Dated \_\_\_\_\_

\_\_\_\_\_  
Mayor, Harold Pedersen

\_\_\_\_\_  
City Manager, Tammy Pfaff

Published in Milaca Union Times on \_\_\_\_\_, \_\_\_\_\_, 2017

# LODGING TAX REMITTANCE FORM

CITY OF MILACA  
255 First Street East  
Milaca, MN 56353  
(320) 983-3141

Reporting Month of \_\_\_\_\_

Lodging Facility  
Contact / Representative  
Address of Lodging Facility

Telephone  
Email


### Instructions for calculating Lodging Tax.

The total amount of lodging tax income for the report month

A

--

Amount of lodging income not paid due to NSF checks, credit card disputes, etc.

B

--

Total exemptions from the lodging tax.  
Supporting documentation is required

C

--

Subtract lines B & C from A to define the total amount of lodging income actually received

D

--

Add any adjustments resulting from corrections of items previously reported for B

E

--

Tax due calculation. Multiply E by 3% (.03) to define total lodging tax. This is the total amount due for the month.  
**( DUE BY THE 20TH OF THE FOLLOWING MONTH )**

F

--

REMIT PAYMENT TO; City of Milaca

Please retain all supporting documents for three years. The City Clerk may need to refer to these forms to perform an audit. Keep a copy of this form for your records and remit a copy with your payment.

Late payments will be assessed a late fee fo 10% of the amount remaining unpaid, if it's paid within 30 days. Unpaid balances after 30 days will be charged another 5%. Not to exceed \$10.00 irrespective of the calculation.

You can make your own copies of this form or obtain copies from the City Clerk's office.

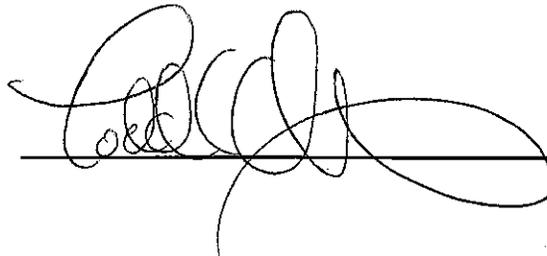
**This form must accompany all future remittances.**

**JULY MONTHLY STATS**  
MILACA POLICE DEPARTMENT

911 Hangups	4
Accident	6
Agency Assist	33
Alarm	10
Animal	8
Arrested	2
Assault	1
Burglary	1
CDTP	3
Child Abuse	0
Child Custody	5
Civil Issue	2
Community Contact	6
DANCO Violation	1
Death Investigation	1
Debris	1
Disturbance	5
Domestic	4
Driving Complaint	5
Drugs	1
Family Services Referral	5
Fire	0
Found Property	3
Fraud-Forgery-Scam	2
Funeral Escort	1
Garbage Dumping	2
Gas Drive Off	3
Gas Leak	0
Harassment Complaint	3
Icr Misc	1
Juvenile Complaint	4
Lockout	5
Lost Property	2
Medical	27
Missing Adult	0
Missing Juv	1
Motorist Assit	2
Noise Complaint	1
OFP Violation	2
Parking Complaint	5
Property Exchange	7
Public Assist	17
Pursuit	0
Recovered Property	1
Remove Unwanted	3
Search Warrant	1
Suicidal Party	0
Suspicious Activity	26
Theft	13
Threats Complaint	3
Traffic	42
Trespass Complaint	1
Vulnerable Adult Report	1
Welfare Check	6
Zoning Violation	3

Community Events Attended	2
Training	0
Citations	6
Parking Citations	3
Park Related Incidents	14
Arrests	6
<b>TOTAL CALLS:</b>	<b>292</b>

Submitted by Todd C. Quaintance for month of July



**City of Milaca**  
**Planning Commission Agenda**  
**August 14, 2017**  
**6:00 P. M.**  
**255 1<sup>st</sup> St. E City Hall Council Room**

1. Open public hearing for a Variance request from Dale & Beverly Clifton to have an accessory structure (deck) less than the required 5 feet setback
2. Close public hearing
3. Open Regular Planning Commission Meeting
4. Call to Order/ Roll Call
5. Approve the minutes from the July 10, 2017 Planning Commission Meeting
6. New Business
  - Variance request from Dale & Beverly Clifton to have an accessory structure place less than the required 5 feet setback. Requesting to have a 3 foot setback.
  - Review of the new rental/housing code ordinance, crime free housing program, fire code and the rental fee schedule
7. Other Business
8. Adjourn

*Council  
Action*

X

## MILACA PLANNING COMMISSION

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MILACA WAS DULY HELD ON THE 10<sup>th</sup> DAY OF JULY 2017, AT 255 1<sup>st</sup> ST. E. FOR THE PURPOSE OF PUBLIC HEARING AND REGULAR MEETINGS.

UPON ROLL CALL, THE FOLLOWING MEMBERS WERE PRESENT:

Scott Harlicker X	Mike Cassens		
Luke Kotsmith	Sherie BillingsX	Arla Johnson X	Pam Novak

### EX-OFFICIO MEMBERS:

Marshall Lind, Building Official/ Zoning X

Laurie Gahm, Liaison

Others Present: Ron Cardinal

### Public Hearing – for conditional use request from Lynn Schlagel to have 3 more apartments located in the B-2 General Business Zoning District

Planning Commissioner Harlicker opened the public hearing and asked for comments or questions.

Lind explained that the applicant was asking to have 3 more apartments, efficiency, a 1 bedroom and a 2 bedroom apartment on the main level of the structure. It would be located to the south of the laundromat.

Being no comments or questions, the public hearing was closed.

**The Regular Planning Commission was called to order and roll call was taken.**

Motion was made by Commissioner Billings to approve the minutes of the May 8, 2017 planning commission meeting. Second by Commissioner Johnson.

Motion **passed** unanimously

Commissioner Harlicker stated the next item on the agenda is the Conditional Use request. Commissioner Billings asked Mr. Cardinal about how the apartments were going to be laid out in the building and if they had adequate egress. Mr. Cardinal stated that each apartment will have their own door going directly to the outside and then he showed everyone the layout he would be doing for the apartments.

Lind explained that even if the Conditional Use was granted, the applicant would still need to follow the MN State Building Code.

Commissioner Billing stated that there looks to be sufficient parking on the site.

Commission Johnson stated that there is a need for apartments in the City and it would be a good use at this location.

Commissioner Johnson made the motion to approve the Conditional Use request from Lynn Schlagel to have 3 more apartments at 525 Central Ave N., located in the B-2 General Business Zoning District. Planning Commissioner Billing seconded the motion.

Motion **passed** unanimously.

Other Business:

Lind explained stated that the City Council has requested that the Planning Commission review and establish a rental/housing code ordinance. Lind explained that staff has come up with a rough draft of a rental ordinance and that there would be a few different parts to the ordinance that will need to be reviewed. Once Planning Commission has reviewed all parts of the Ordinance, then there would be a public hearing and then it would be brought to Council.

Lind stated that in one section of the ordinance it states the City must create a Housing Advisory and Appeals Board. Lind stated that he is recommending that this would be the Planning Commission.

Commissioner Billings asked if the City Police Department is in favor of the Ordinance, Lind stated it was the Police Chief that brought the idea and the existing problems to the City Council.

All Commissioners believed that this would be a good thing for the City.

With no other business a motion to adjourn was made by Commissioner Billings, second by Commissioner Johnson.

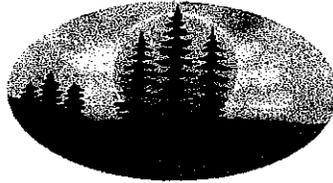
Motion **passed** unanimously

Minutes respectfully submitted by,

*Marshall Lind*

Marshall Lind  
Zoning Administrator

# CITY OF MILACA



255 1<sup>st</sup> ST E  
MILACA MN 56353  
(320) 983-3141  
(320) 983-3142 FAX  
[www.cityofmilaca.org](http://www.cityofmilaca.org)

## APPLICATION FOR VARIANCE

Application is hereby made for a Variance from (description of variance)

Addition of an 8x10 deck. (Refer to attached sheets  
for more detailed explanation + pictures)

Address of Property: 310 2<sup>nd</sup> Ave. NW

Owner Name: Dale + Beverly Clifton

Owner Address: 310 2<sup>nd</sup> Ave. NW

Street Address

Milaca MN 56353

City

State

Zip Code

Telephone: (320) 982-1017

Applicant's Name: Dale + Beverly Clifton

Applicant's Address: 310 2<sup>nd</sup> Ave. NW

Street Address

Milaca MN 56353

City

State

Zip Code

Applicant Telephone: (320) 982-1017

The following information is submitted in support of the application as described on the attached "Variance Procedures":

Completed Application for Variance

Fee of \$200

Legal Description of property attached

Depending on the variance requested, the following may be required:

\_\_\_\_\_ 16 copies of a Site Plan

\_\_\_\_\_ 16 copies of a Sign Plan

\_\_\_\_\_ 16 copies of any other appropriate plans or drawings

A narrative explaining the purpose of the request, the exact nature of the Variance, and the justification of the request.

Other

\*\*\*\*\*

I fully understand that all of the above required information must be submitted at least 20 days prior to the Planning Commission meeting to ensure review by the Planning Commission on that date.

Applicant's Signature Dale Clifton

Date 7/19/2017

Comments/Revisions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

Received By:

City Agent's Signature MLL 25 7/19/17

Date 7/19/17

Greetings.

In June of 2015, my wife & I moved to Milaca and soon located a home to live in... much to our liking. It's the house located at: 310 2<sup>nd</sup> Ave N.W. -- in the city limits of Milaca. We like our home... and noticed that there was an unfinished place for a small deck. In fact, there are wonderful sliding doors which anticipate the addition of a deck. (refer to pictures provided) We knew finishing this project would be an enjoyable pursuit.

We applied for a building permit, and discovered (from Marshal) that the house is situated only 11 feet from the property line (*refer to property description sheet*). Any attached deck on the north side of the house must be at least 10 feet from the property line.... however, if the deck is UNATTACHED it must be 5 feet from the property line. To comply with this requirement, we can have a *deck that would not exceed 6 feet in width -- i.e. adjacent to the house extending northward.*

Our initial plans were then, to build a 6 x 10 foot unattached deck. Upon consideration of such a small deck, we are seeking a variance of 2 feet. Specifically, we'd like to have the deck be 8 feet in width, instead of the smaller, but "code" width of 6 feet. This would place our deck 3 feet from the property line.

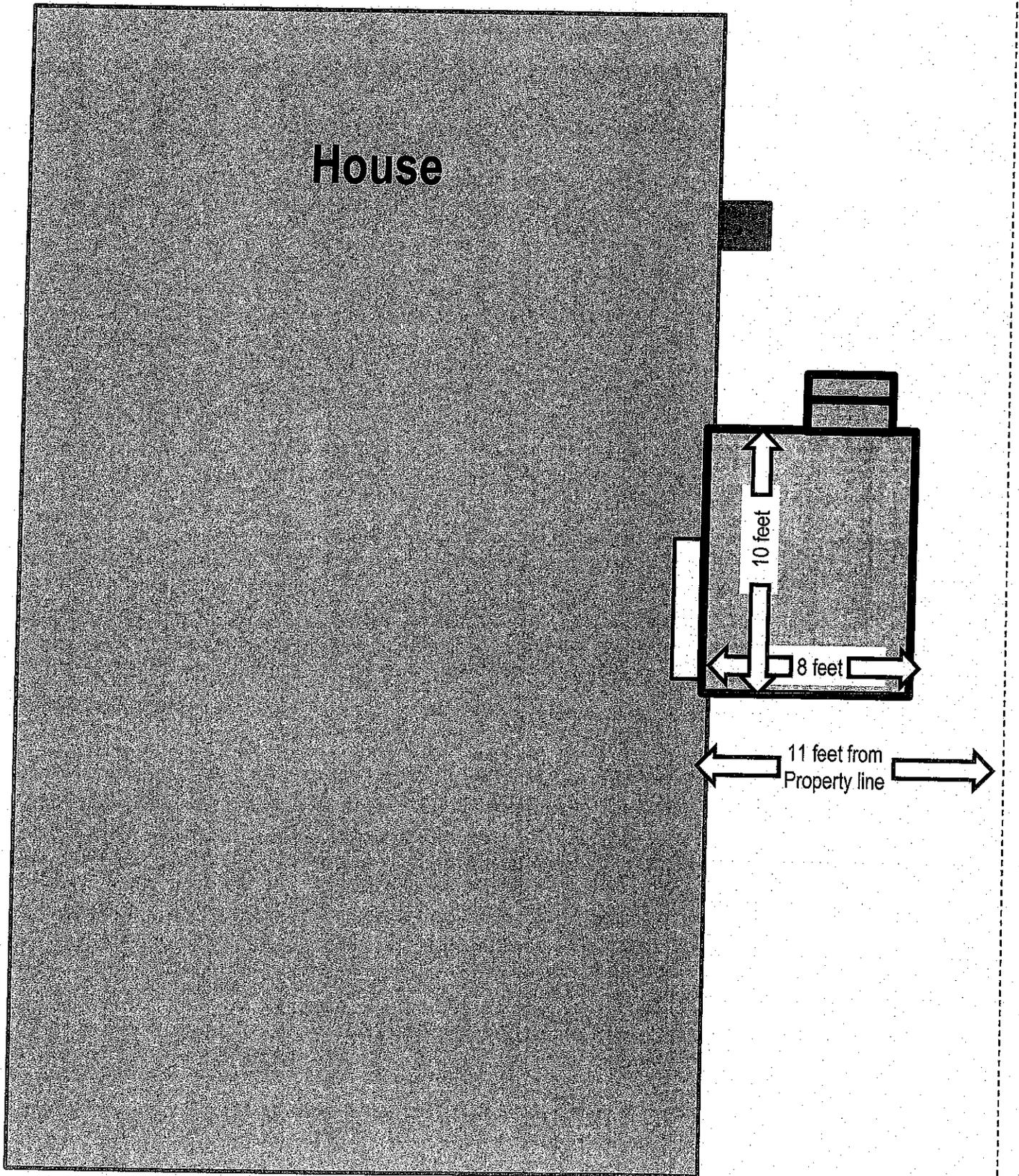
City ordinance requires lots to be 10,000 square feet; Our house lot is 9,854 square feet. Due to the size of my lot not meeting current lot requirements is a hardship for meeting all setbacks. Had our house been placed more central in the lot, there would have been more than enough room. We look forward to the addition of the deck, thus completing the construction of the home and enhancing its appearance. It will also provide a walking access from the center of the house (kitchen/dining room) to the outside.

Thanks for your consideration.

Dale & Bev Clifton

Basic diagram of house & deck addition:

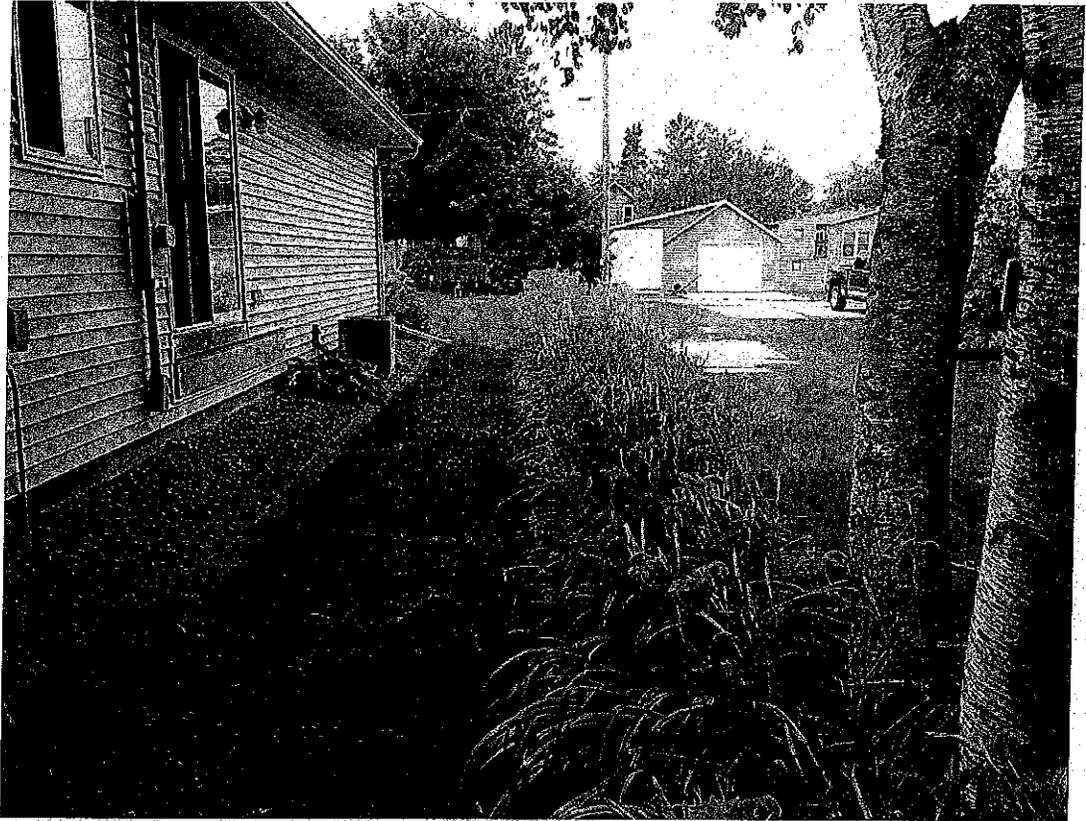
lot = 9,854 square feet



Dale & Bev Clifton , 310 2<sup>nd</sup> Ave. N.W. , Milaca  
Request for Variance ... to have a 8 ft. x 10 ft. deck.

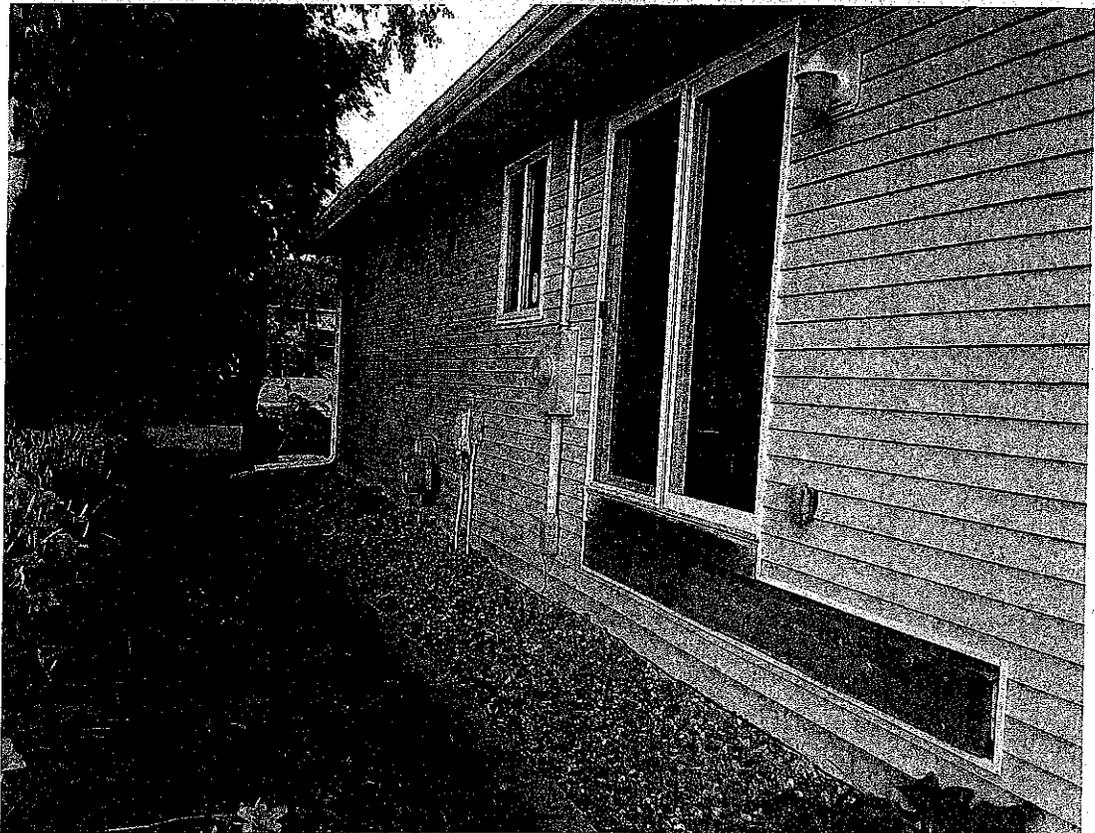
Looking  
westward  
(north side  
of house)

N →



Looking  
eastward  
(north side  
of house)

← N



Mille Lacs County

Zoom In  
  Zoom Out  
  Pan  
  Zoom Prev  
  Zoom Next  
  Zoom Select  
  Zoom Extent  
  Clear  
  Search  
  Identify  
  Legend  
  Results  
  Buffer  
  X/Y  
  Map Tips  
  Draw  
  Measur



Print Map

Map Title

Author

Resolution:  
 Low  
 Med  
 High

Layout Template

Format

Preserve Scale

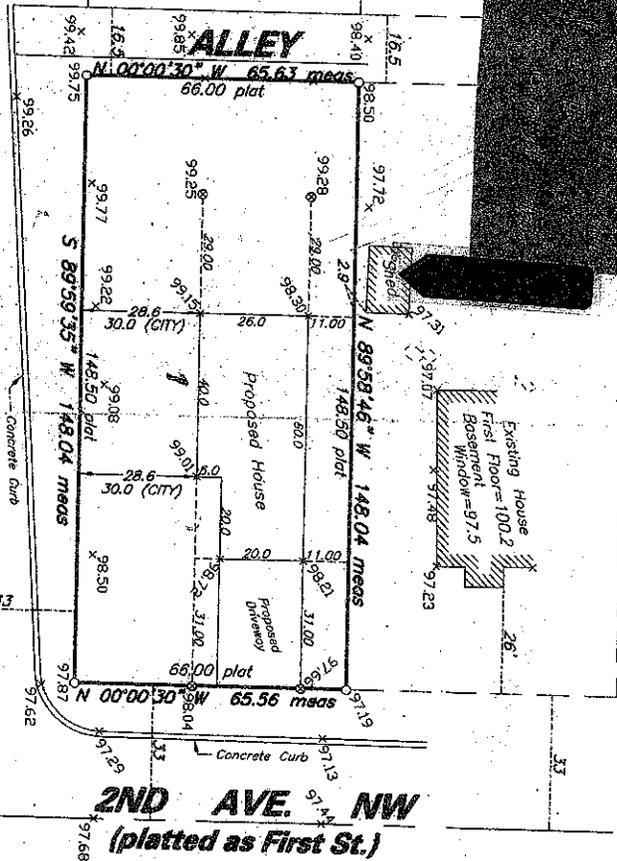
Property Description:  
 LOT 1, BLOCK 8, FIRST ADDITION TO MILACA

P.O. Box 604  
 Big Lake, MN 55309

HOUSE ELEVATIONS TO BE DETERMINED BY  
 BUILDER AND APPROVED BY THE CITY OF  
 MILACA BUILDING OFFICIAL

BUILDER TO VERIFY ALL BUILDING DIMENSIONS

- BUILDING SETBACKS ARE:
- 30 FEET FRONT YARD
  - 30 FEET SIDE YARD (adjoining Roadway)
  - 10 FEET REAR YARD
  - 10 FEET ALLEY SIDE



SCALE IN FEET  
 1 INCH = 30 FEET

- DENOTES EXISTING SURFACE ELEVATION
  - DENOTES A FOUND IRON MONUMENT
  - DENOTES A SET 1/2" IRON PIPE WITH A PLASTIC PLUG STAMPED R.L.S. 19422
  - ⊙ DENOTES A SET LARGE DIAMETER NAIL
- BEARINGS SHOWN ARE ASSUMED

RUM RIVER LAND SURVEYORS INC.

413 S. RUM RIVER DRIVE  
 PRINCETON, MN, 55371  
 763-389-4476  
 Steven G. Seeger, L.S.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.

*Steven G. Seeger*  
 Steven G. Seeger  
 Minnesota License No. 18422

24010 BK. 41, PG. 37

**MILACA PLANNING COMMISSION**

**STAFF REPORT**

**Subject: 17-05 Variance request**

**Applicant: Dale & Bev Clifton**

**Location: 310 2<sup>nd</sup> Ave NW**

**Zoning: R-2 One & Two Family District**

**Request: To have Accessory Structure (Deck) Closer to North Property Line than the Required 5 feet.**

**Date of Public Hearing: August 14, 2017**

**Reported By: Marshall Lind**

**Application Submitted:**

The application for the variance has submitted a narrative explaining the purpose of the request, a diagram, pictures and his Certificate of Survey.

**Comments:**

The applicant is asking to have a accessory structure (deck) closer to the North property line than what City Ordinance 156.057 (C) (2) (a) requires. Ordinance 156.057 (C) (2) (a) requires a minimum of five feet from side property line. The applicant is asking to have the side property line set back reduced to three feet.

Sec. 156.167 Conditions for granting variances.

- (A) (2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.
- (B) Economic consideration alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

**Staff Recommendation:**

The property is located in the R-2 One and Two Family Zoning District. Because the deck that they would like to construct is detached from the home, it would be considered an accessory structure. Ordinance 156.057 (C) (2) (a) requires a minimum of five feet from side property line. I believe that the property can be put to a reasonable use under the conditions allowed by the official controls, but City Ordinance 156.036 R-2 One and Two Family District (B), does require lots to be a minimum of 80 feet minimum width and this lot is 66 feet in width. The property is also located on a corner, on a corner lot City Ordinance 156.036 R-2 One and Two Family District (B) requires the side yard setback that is on the road side to be 30 feet and the front yard to be 30 feet, thus reducing the placement in the lot for the structure. MN State Building Code does allow structure to be placed three feet from the property line, anything closer to the property line does need to be fire proofed.