

PLEASE NOTE: No Study Session planned.



OWATONNA CITY COUNCIL MEETING

Tuesday, February 21, 2023 at 7:00 PM

Council Chambers, City Hall at 540 West Hills Circle

**Roll Call: Council Members Svenby, Voss, Dotson,
Burbank, Boeke, Raney & Schultz**

1. INTRODUCTORY ACTIONS: Call to Order; Roll Call and Pledge of Allegiance

1.1. Council Agenda

1.2. Mayor Kuntz

2. CONSENT AGENDA ITEMS

2.1. Minutes – Council Meeting – February 7, 2023

2.2. Board/Commission Minutes

2.2.1. Human Rights Commission Meeting - January 10, 2023

2.2.2. Planning Commission Minutes - February 14, 2023

2.3. Department Reports:

2.3.1. Police Monthly Activity Reports - January 2023

2.4. Temporary Liquor Permits - Mineral Springs Brewery:

1) April 29 at Souba Greenhouse Open House - 4003 Crane Creek Rd

2) June 16 at Federated Insurance Co Celebration - Steele Co Fairgrounds

3) September 22 & 23 at OktoberFest at Mineral Springs Brewery - 111 N Walnut Ave

2.5. Miscellaneous

2.5.1. Gallagher: Ongoing Project Agreement and Scope of Work

3. ACTION ITEMS

3.1. Finance Report

3.2. Resolutions:

3.2.1. Resolution 18-23: Increase Fire Fighters Pension

3.2.2. Resolution 19-23: RZ-1, Add PUD Overlay Zone to 3325 9th Street NW

3.2.3. Resolution 20-23: Set Date for Public Hearing to Approve Street Reconstruction Plan

3.3. Miscellaneous

3.3.1. Letter of Intent to Purchase US Bank Parking Lot

3.3.2. Personnel Policy Revisions

3.3.3. Compensation Plan

4. STAFF REPORTS

5. PUBLIC COMMENTS: (Please limit comments - 2 minutes and items not on the agenda.)

6. COUNCIL COMMENT AND GENERAL INFORMATION

7. ADJOURN

Owatonna City Council Minutes – DRAFT Copy

Council President Schultz called the regular session of the Owatonna City Council to order on Tuesday, February 7, 2023, at 7:00 p.m. in Council Chambers at City Hall. Present were Council Members Raney, Svenby, Voss, Dotson, Burbank, and Schultz; Mayor Kuntz; Assistant City Engineer Murphy; Parks, Recreation & Facilities Director Tuma; City Attorney Walbran; City Administrator Busse, and Administrative Specialist Clawson. Council Member Boeke was unable to attend.

Agenda

Following the Pledge of Allegiance, Council President Schultz welcomed everyone to the meeting. Council Member Svenby made a motion to approve the agenda as presented, Council Member Dotson seconded the motion, all members present voted aye for approval.

Consent Agenda Items

Council President Schultz explained council members review the Consent Agenda items prior to the meeting for approval in one motion. Consent Agenda items for this meeting include:

- Minutes – Council Meeting – January 17, 2023
- Minutes - Planning Commission Meeting - January 10, 2023
- Minutes - Library Board Meeting - January 17, 2023
- Minutes - EDA Meeting - January 18, 2023
- Minutes - HRA Board Meeting - January 23, 2023
- Building & Inspections Monthly Reports - January 2023
- Temporary Liquor Permit - April 22, 2023 - St Mary's School
- Retail Fireworks Permit - Fleet Farm
- Exempt Permit - Minnesota Pheasants Inc - Raffle at VFW - April 1, 2023
- Resolution 16-23 Authorize Contract for Purchases - Fame Awards
- 26th Street Lift Station Panel Design Agreement – Advanced Engineering and Environmental Services, LLC

Council Member Voss made a motion to approve these Consent Agenda items, Council Member Burbank seconded the motion. Council Member Voss commented he will recuse from voting as one item is for purchased from his business, Fame Awards. With no additional comments, all members voting, voted aye for approval.

Finance Report

Council Vice President Raney recapped payments made more than \$20,000 for this period. Bills presented for payment totaled \$2,259,433.58. Council Member Burbank made a motion to approve payment of all bills, Council Member Voss seconded the motion, all members present voted aye for approval.

Ordinance 23-03: Establish Chapter 121 – Sale of Cannabinoid Products and Ordinance 23-04: Amend Chapter 35, Fees & Charges for Sale of Cannabinoid Products

City Attorney Walbran presented the first reading of proposed Ordinance 23-03 to establish Chapter 121, Sale of Cannabinoid Products in the 2015 Code of City Ordinances. Council considered this ordinance during their last meeting but tabled action with request for additional information. State Legislature is currently debating House File 100 (HF100) which broadly covers the regulation of marijuana, including "lower potency edible products" which are similar to, but not exactly the same as the edible cannabinoid product allowed since the summer of 2022. HF 100

provides for the licensing of lower potency edible products, and regulations governing retail operations.

The proposed state legislation preempts local control by cities in many respects. A City can't prohibit the establishment of a cannabis business licensed under the law; but can adopt reasonable restrictions on time, place, and manner of the operation of a cannabis business. If State Legislature adopts its bill, some provisions of our ordinance would be preempted, and others likely amended. It is anticipated that the 2023 Legislature will adopt further regulations for the retail sale of edibles.

Attorney Walbran explained changes made to the proposed ordinance since the last Council Meeting include:

- A sentence duplicated in error was deleted.
- Prohibited sales, restriction deleted.
- Added a provision requiring product must be in locked cabinet and visible for purchase.
- Annual license fee amount was changed to \$1,000. Chief Mundale provided information on anticipated compliance cost and this amount would be comparable with other city license fees, the City's annual On-Sale Liquor License is \$3,000/year.
- Recommend if the first reading of this proposed ordinance is approved, the second/final reading should be heard after the legislative session ends in May.

Council Member Raney questioned why wait, the retailers should be required to obtain a license authorizing sales and restrictions of cannabinoid products. Attorney Walbran commented current retailers are subject to legislation effective last July which includes no sales to individuals under the age of 21 and no packaging subject to juveniles.

Attorney Walbran explained it would be confusing if the City's ordinance became effective now and then required to be redone within a few months if the pending state legislation is approved. Approving the first reading of this proposed ordinance will serve as a notice to the local retailers that the City has begun a license process to implement if the state does not approve one during this legislative session.

Council Member Dotson commented he would prefer to wait until the state session has completed.

Council Member Voss commented after reviewing the information sent by Chief Mundale, it seems it would be costly to pursue litigation against an underage user and questioned what penalty they would/could be assessed?

City Attorney Walbran believes this would be a simple misdemeanor with a \$1,000 penalty; but the proposed city ordinance is to authorize the sale and restrictions of cannabinoid products for local retailers but not the end user.

Council Member Dotson made a motion to table action on the proposed cannabinoid ordinances until after the current legislative session is over, Council Member Dotson seconded the motion. The motion failed with a roll call vote; voting aye were Dotson and Voss, voting no were: Svenby, Burbank, Raney, and Schultz.

Council Member Svenby made a motion to approve the first reading of Proposed Ordinance 23-03 to Establish Chapter 121 in the City's Code of Ordinance regarding the Sale of Cannabinoid Products, Council Member Raney seconded the motion. With a roll call vote, voting aye were Svenby, Voss, Burbank, Boeke, Raney, and Schultz; voting no was Dotson, the motion carried.

Council Member Svenby made a motion to approve the first reading of Proposed Ordinance 23-04 to Amend Chapter 35, Fees and Charges of the 2015 City Code of Ordinance to include a license annual fee of \$1,000 for retail sales of cannabinoid products. Council Member Raney seconded the motion. With a roll call vote, voting aye were Svenby, Voss, Burbank, Boeke, Raney and Schultz; voting no was Dotson, the motion carried.

Council Member Svenby made a motion to table second readings of these proposed ordinances until June 6, 2023; the first Council Meeting after the end of the current legislative session. Council Member Raney seconded the motion, with all members present voting, the motion was approved 5 to 1, Council Member Dotson cast the no vote.

Resolution 17-23 Approve Report and Set Hearing Date – 2023 Street and Utility Project

Assistant City Engineer Murphy requested approval of Resolution 17-23 approving the Feasibility report for the 2023 Street and Utility Project and setting a date for the Preliminary Assessment Public Hearing. The project proposed included reconstruction of:

McKinley Street SW—Oak Avenue S to Lilac Avenue SW
Butternut Avenue SW—McKinley Street SW to Riverview Place SW
Riverview Place SW—Butternut Avenue SW to East cul-de-sac
School Street E - Main Street to Partridge Avenue E

with an estimated cost of \$3,160,491.63. This cost greatly exceeds what was anticipated and planned for in the Capital Improvement Plan (CIP) so to mitigate the risk of over expenditures, staff recommends improvement to McKinley Street SW be removed from this project to reduce the estimated project cost to \$1,416,539. The total cost to be assessed is currently estimated at \$1,914,498 with approximately 64 property owners which would be reduced to \$903,310 with 31 properties if McKinley Street SW removed from the project.

Council Member Raney commented he understands the financial need to remove McKinley from this project and hopes this street will be a priority for reconstruction in 2024. Murphy responded this street would be on the short list and should be a priority for completion in 2024.

Council Member Dotson made a motion to approve Resolution 17-23 setting a public hearing for the improvements proposed on Butternut Avenue SW, Riverview Place SW, and School Street E. Date of the Preliminary Assessment Public Hearing for these proposed improvements will be Tuesday, March 7, 2023, in Council Chambers. Council Member Raney seconded the motion, all members present voted aye for approval.

Tobacco License – DS Store LLC dba Owatonna Fuel & Food

City Administrator Busse requested approval of the Retail Tobacco License Application received from Deepak Subedi. His company DS Store LLC will do business as Owatonna Fuel & Food at 401 N Cedar Avenue which they recently purchased. Approval is dependent on background verification of the new owner, which was completed and Chief Mundale has no objection to the

issuance of this Tobacco License. This license will be effective immediately for the remainder of the current license period to expire December 31, 2023. Council Member Raney commented after reviewing the information received from Chief Mundale for anticipated compliance costs of cannabinoid product sales, he would like similar information for Tobacco License compliance costs to review if our current cost of an annual Tobacco License is sufficient. Council Member Burbank made a motion to approve this Tobacco License, Council Member Svenby seconded the motion, all members voted aye in approval.

Council President Schultz commented there will be general discussion of the three remaining agenda items, all items are in regard to the Council Chambers Renovation Project. Action will be taken on each item separately following the discussion. Park & Rec and Facilities Director Tuma commented Theresa McCormick, Consultant with CRW Architecture is present to answer questions.

The first item is Change Order #1 for the agreement with Ebert, Inc. There are three items on this change order:

- 1) The large projector screen was moved to a separate contractor agreement so removing from contract with Ebert, Inc.
- 2) Removed proposed ceiling tile in the IT Room
- 3) Upgrade the tile in the restroom so tile would be similar to the tile used last year in the new bathroom at the library.

Change Order #1 will reduce the contract with Ebert, Inc. by \$17,282.

The second item is Change Order #2 for professional services. The additional services are in two areas; addressing the additional architectural work to address the State Historic Preservation Commission (SHPO) and bidding through commissioning of the Information and technology equipment serving the council chamber space. Design of the Information Technology Systems for the City Council Chamber was included in the initial fee. The scope of the specification, coordination of bidding, and final equipment commissioning was not understood to be a part of that scope. Change Order #2 includes:

- 1) \$5,000 For the final SHPO review of the design, the team and City staff spent more than three (3) months and significant time accommodating the SHPO requests for information and design modifications. T
- 2) \$13,300 bid review of qualified AV contractor, AV construction phase support services, and AV Commissioning with AV contractor on site post construction to assure AV/IT is performing to the set standards with the results we want, and staff are trained.

Change Order #2 will increase CRW architecture + design group's contract by \$18,300 for professional services for a total of \$112,650.

The third item is an agreement with Advanced Audio & Lighting for Council Chambers audio and visual (AV) work and the temporary technology setup in the Library. AV upgrades are incorporated into the construction documents, but it was determined for best results to manage the AV equipment selection (new and reuse) and install would be best managed through a vendor who specializes in this work. This approach delivers the work, warranty, and training directly to the city. In addition to the Council Chamber AV work, a temporary location is needed to host the public meetings of City Council, Commissions and Boards. The City Library's Gainey Room is reserved for these meetings and a temporary AV system is needed to support these meetings. It was

determined the most cost effective and timely approach to coordinate the transition was to use the same AV company for the Council Chamber and the temporary library location using rental equipment. The agreement with AAL includes the following:

1. Technology equipment and installation as stated in their bid.
2. Temporary AV equipment setup in the Library during Council Chambers construction.
3. Large, motorized screen (Change Order #1 reflects this change).

The quote/proposal for the AV project received from Advanced Audio & Lighting was \$157,300.00.

Tuma commented there are some additional items are still needed for this renovation project: update to the PEG Channel, furniture, and door access.

Council Member Svenby commented the project was to provide accessibility for all residents and requests the doors to the restrooms be automated for ease of accessibility. Teresa McCormick, Architecture Consultant commented the current plan includes automated doors at the building's three entrances. The doors on the restrooms are push/pull but no latch and do meet ADA Compliance requirements. Updating the plan to add two automated doors, would add approximately \$10,000 to costs. Council Member Svenby requested this change be made, Tuma commented this would be discussed with the Building Task Force and McCormick commented she would request a proposal from Ebert, Inc.

Tuma commented request also received to consider heating the sidewalk on the north side of the building similar to the sidewalks currently around City Hall by the boiler system used to heat the West Hills campus. McCormick commented they reached out to subconsultants for information on ways to power this system and an estimate for this received from Ebert, Inc was \$90,000. Council Member Burbank asked if electric heat would be cheaper, Tuma responded the contractor recommended electrical sidewalk heat not be considered. Council Member Raney requested the Building Task Force also consider this and report back. With no additional comments, Council President Schultz asked for motions for agenda item consideration.

Council Chambers Project Change Order #1 - Ebert, Inc.

Council Member Raney made a motion to approve Change Order #1 for Ebert, Inc. Council Member Burbank seconded the motion, all members voted aye in approval.

Council Chambers Project Change Order #2 – Professional Services

Council Member Svenby made a motion to approve Change order #2 for professional services. Council Member Voss seconded the motion, all members voted aye in approval.

Council Chambers Project Agreement – Advanced Audio & Lighting

Council Member Raney made a motion to approve the agreement with Advanced Audio and Lighting, Council Member Voss seconded the motion, all members voted aye in approval.

Staff Updates

Sean Murphy, Interim Director Public Works commented a new drone video of the Wastewater Treatment Plant (WWTP) project is posted on the City's website. This January video looks similar to the previous one posted in December, but progress is being made. The Fine Screening building has been enclosed and work is being done on the interior. The contractor is currently on schedule and costs coming in as projected. The City has a partnership with Steele

County for the roundabout at the intersection of 18th Street SE and Bixby Road; Steele County is currently in process of the right-of-way acquisitions and will hold a meeting with the property owners to discuss drainage concerns. The Main Street Feasibility Report should be done in a few weeks, this will show what reconstruction or rehabilitation is recommended. Also, staff is organizing public engagement meetings for discussion on the city's East Side Corridor. We haven't incurred any new snow events so staff is out working through neighborhood trying to clear troublesome areas to improve sight lines. During winter months, we have option to cold patch potholes; these patches flex with freeze/thawing conditions but can be done if needed. We want to make our streets as safe as possible so if there is an area needing some attention, please contact our Public Works Office.

Jenna Tuma, Park & Recreation and Government Buildings Director commented next week the 2023 Spring/Summer Activity Guide will be mailed to all 12,000 households within the city and copies will also be available at City Hall. Last year was the first time this publication was mailed and well received. Now, staff will begin preparing the Fall/Winter Guide for distribution at the end of summer. The 2023 Winter Weekend Out was postponed one week because of extremely cold weather, this last weekend at Brooktree Golf Club there were 58 participants for snowshoeing and 194 attended the luminary walk. Council President Schultz commented he has seen many enjoying the new ice rink at Buecksler Park.

Public Comments – none were heard.

Council/Administration Comments and General Information

Council Member Voss thanked City Attorney Walbran for preparing the ordinances regulating the sale of cannabinoid products; he put a lot of time and research into drafting these ordinances.

Council Member Dotson congratulated the Owatonna Pee Wee C Hockey Team for their second-place finish in last weekend's tournament. They worked hard and almost won it.

Mayor Kuntz commented terms of several board/commission members will be expiring this year. Applications will be posted on the city's website later this month. There will be opening on the Airport Commission, Fire Civil Service, Human Rights Commission, Library Board, Owatonna Public Utilities, and the Shade Tree. There may be additional opportunities if current members eligible for reappointments choose to not serve an additional term.

City Administrator Busse next week, we will be holding the 2023 Strategic Planning Sessions with Council, Mayor and Department Directors attending.

Adjournment

At 7:45, Council Member Raney made a motion to adjourn, Council Member Dotson seconded the motion, all members voted aye in approval.

Respectfully Submitted,

Jeanette Clawson, Administrative Specialist

Owatonna Human Rights Commission - Minutes

The Owatonna Human Rights Commission (OHRC) met on Tuesday, January 10, 2023, in the Second Floor Conference Room at City Hall. Commission Chairman Cords called the meeting to order at 5:35 p.m. with Commissioners Cords, Vanoosbree, Gillespie, Effertz and Gunderson; City Administrator Busse and Administrative Specialist Clawson present. Commissioners Leon and Emanuelson were unable to attend.

Following the Pledge of Allegiance, Commissioner Cords welcomed everyone to the meeting. Commissioner Gunderson made a motion to approve the agenda as presented, Commissioner Vanoosbree seconded the motion, all members present voted aye for approval. After review of the Minutes of the November 7, 2022, Meeting, Commissioner Leon made a motion to approve the Minutes as presented; Commissioner Gunderson seconded the motion; all members present voted aye in approval and the motion carried.

Welcome America

City Administrator Busse confirmed receipt of a Welcome America grant to waive/cover the 2023 membership fee.

2023 Martin Luther King Day Event – January 16, 2023

Plans are in place for this event next Monday morning. Commissioners were encouraged to continue to promote this event, flyers have been printed and distributed. Commissioners Gunderson and Cords will be traveling to Rochester tomorrow, January 11, for an interview with KTTC TV. Commissioner Gunderson will also do a Talk of the Town radio interview on Friday, January 13th. Commissioner Gunderson extended an invitation to the Owatonna Police Department. Commissioners Gunderson and Cords attended the January 3rd City Council Meeting and extended invitation during Public Comment to the Mayor, Council, City Staff Members, and the General Public. An article published in the Owatonna People's Press with Dr. Kunkel's picture promoting the breakfast and Commissioner Gillespie also wrote a feature article for their Guest Column which will publish this week. Commissioner Gunderson will introduce Dr. Kunkel during the breakfast. Commissioner Cords will follow-up with Annie Harmon, OPP Editor if she or another OPP staff member will attend the breakfast. Commissioner Cords will prepare the survey for breakfast attendees and also update the OHRC brochure.

2023 Welcome Week

Commissioner Cords commented the event doesn't need to be a specific calendar week, the events can occur over a longer period of time. OHRC Commissioners hope to finalize plans for this year's event during their April OHRC Meeting so everyone was asked to bring activity ideas to the February OHRC Meeting. General discussion about holding events at Central Park, asking other groups to participate, hosting a 3-on-3 basketball tournament, or having a band perform.

Request for Land Acknowledgement

Last week while attending the City Council Meeting, Commissioners Cords and Gunderson spoke with Lauren Thamert, a current student at University of MN, Mankato. She asked if the OHRC has considered preparing a Land Acknowledgement Statement. Several cities have done this, after their 2020 Day of Peace, the Northfield Human Rights Commission requested their City Council make a Land Acknowledgement Statement. City Administrator Busse suggested this might be an activity to consider during Welcome Week. Commissioner Cords and Gunderson will research and provide update during the next OHRC Meeting.

At 6:05 p.m., Commissioner Gunderson made a motion to adjourn, Commissioner Effertz seconded the motion, with no objections, the meeting was adjourned. The next meeting date will be on Tuesday, February 14, 2023, at 5:30 p.m.

Respectfully submitted,
Jeanette Clawson, Administrative Specialist

DRAFT COPY

OWATONNA PLANNING COMMISSION MINUTES FOR FEBRUARY 14, 2023

The Owatonna Planning Commission met in regular session at 5:30 pm in the Council Chambers of the City Administration Building with Chairperson Kelly Rooks conducting the meeting. Present at roll call were Commissioners David Effertz, John Eickhoff, Mark Meier, Nick Peake, and Kelly Rooks. Rachel Springer-Gasner and Mark Wilson were absent. Community Development Manager Greg Kruschke and Planning Technician Kristen Kopp were also present.

A motion was made by Effertz and seconded by Peake to approve the minutes of the regular meeting of January 10, 2023. All Commissioners voting Aye, the motion carried.

Application No. RZ-1, which is a request by Stephanie Hansen, Owatonna Cheer LLC, a holder of a lease agreement with 8th Street Owatonna LLC, for rezoning of a property to add an Overlay PUD, Planned Unit Development, on the I-2 Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW, was presented by Community Development Manager Greg Kruschke. (Refer to report on file.) Public hearing opened at 5:34 p.m. No comments were made regarding this request. Public hearing closed at 5:35 p.m. Eickhoff asked about traffic control on Hoffman Drive and if that was a consideration. Kruschke said that it is a concern as 32nd Ave is a major industrial road. If each kid drives separately, we're talking 15 trips, so a couple a minute, which is pretty low. There is a left turn lane off Hoffman onto 32nd. Rooks asked what the rest of the building is being used for. Stephanie Hansen said that it's empty, but there were some lab rooms. She said she's paying about 80-85% of the total rent for the entire building, so the property owner is getting the majority of their requested rent. Eickhoff asked if she had looked at other buildings, but cost was a factor. She said she had looked at new construction, and that is cost and more so time prohibitive. Rooks asked about the age range. Hansen said ages 4 to 18. Rooks said that some of the kids would be able to drive. Meier said even for high school that's pretty light traffic. A motion was made by Peake and seconded by Meier to recommend approval of the rezoning request of a property to add an Overlay PUD, Planned Unit Development on the I-2 Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW with the following conditions:

- 1) The west side of the parking lot shall be striped to designate the parking stalls.
- 2) No events shall be held at the facility, only practices.
- 3) No other uses shall be permitted in the building during the hours of 5–9 p.m. when the cheerleading program is practicing.
- 4) Any additional uses in this building shall be approved by the City to ensure proper separation of traffic and the interior of the building to keep all occupants safe.

Eickhoff asked if there could be a time limit on this request where they could review this. Kruschke said that there isn't in our code currently. Statue allows for Interim Use Permits but our ordinance is not set up for it at this point. This is about the only route that the code affords us at this time. The Planning Commission cannot put a condition on time with this request. Eickhoff said he thinks it's great, but the location and traffic concerns make him nervous.

Commissioners voting Aye: Meier, Rooks, Peake, and Effertz. Commissioners voting Nay: Eickhoff. 4-1, the motion carried.

Kruschke presented the January Building Permit Reports. Cemstone came through with their permit in January for their batch plant.

Kruschke said that there are at least two items for the March 14 meeting.

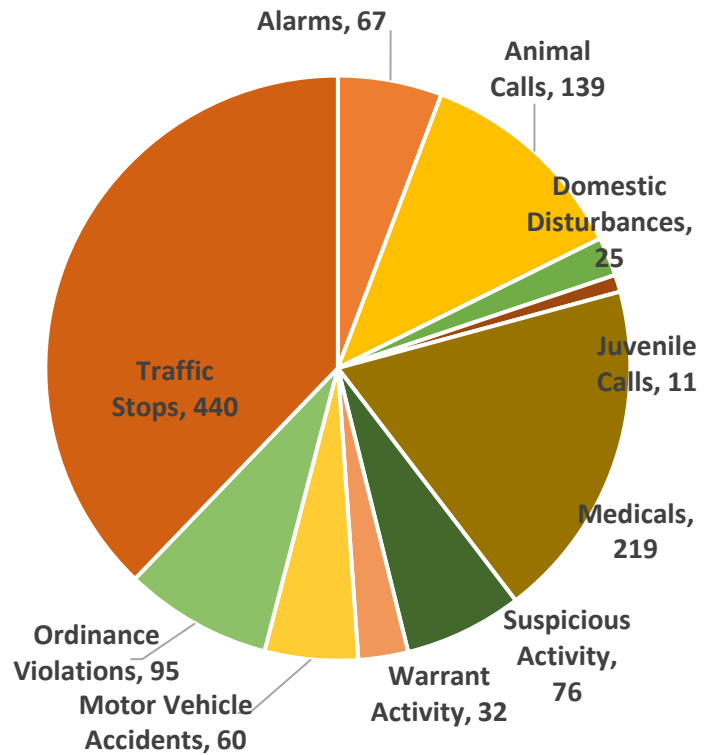
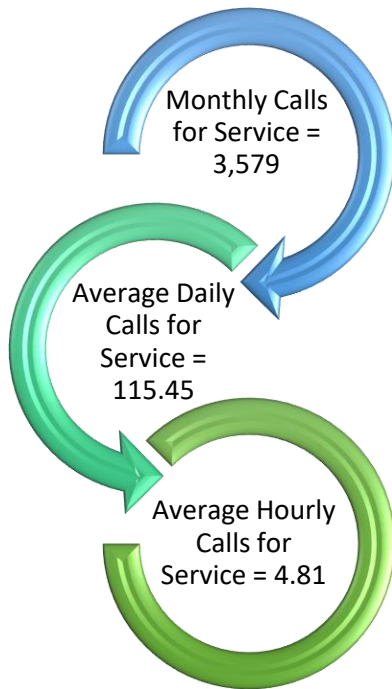
There being no further business to come before the Planning Commission at this time, a motion was made by Meier and seconded by Eickhoff to adjourn the meeting at 5:41 pm. All Commissioners voting Aye, the motion passed.

Respectfully Submitted,

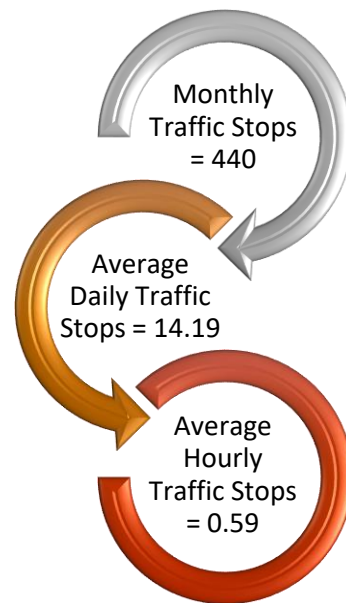
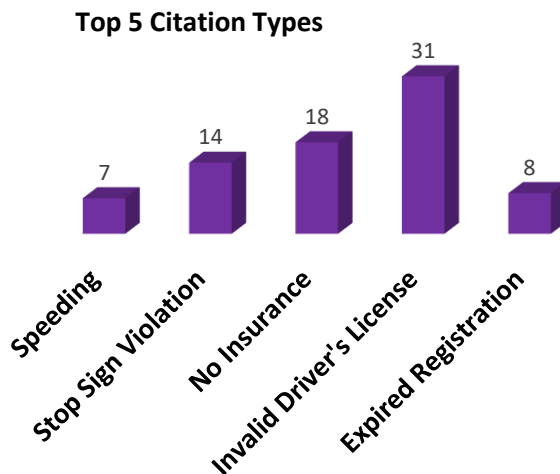
Greg Kruschke
Community Development Manager

OWATONNA POLICE DEPARTMENT

January 2023



In the month of January 2023, the Owatonna Police Department answered 3,579 calls for service, including 440 traffic stops, 67 alarms, 25 domestic disturbances, 139 animal calls, 11 juvenile calls, 219 medical calls, 76 suspicious activity calls, 32 warrants, 95 ordinance violations, and 60 motor vehicle accidents.



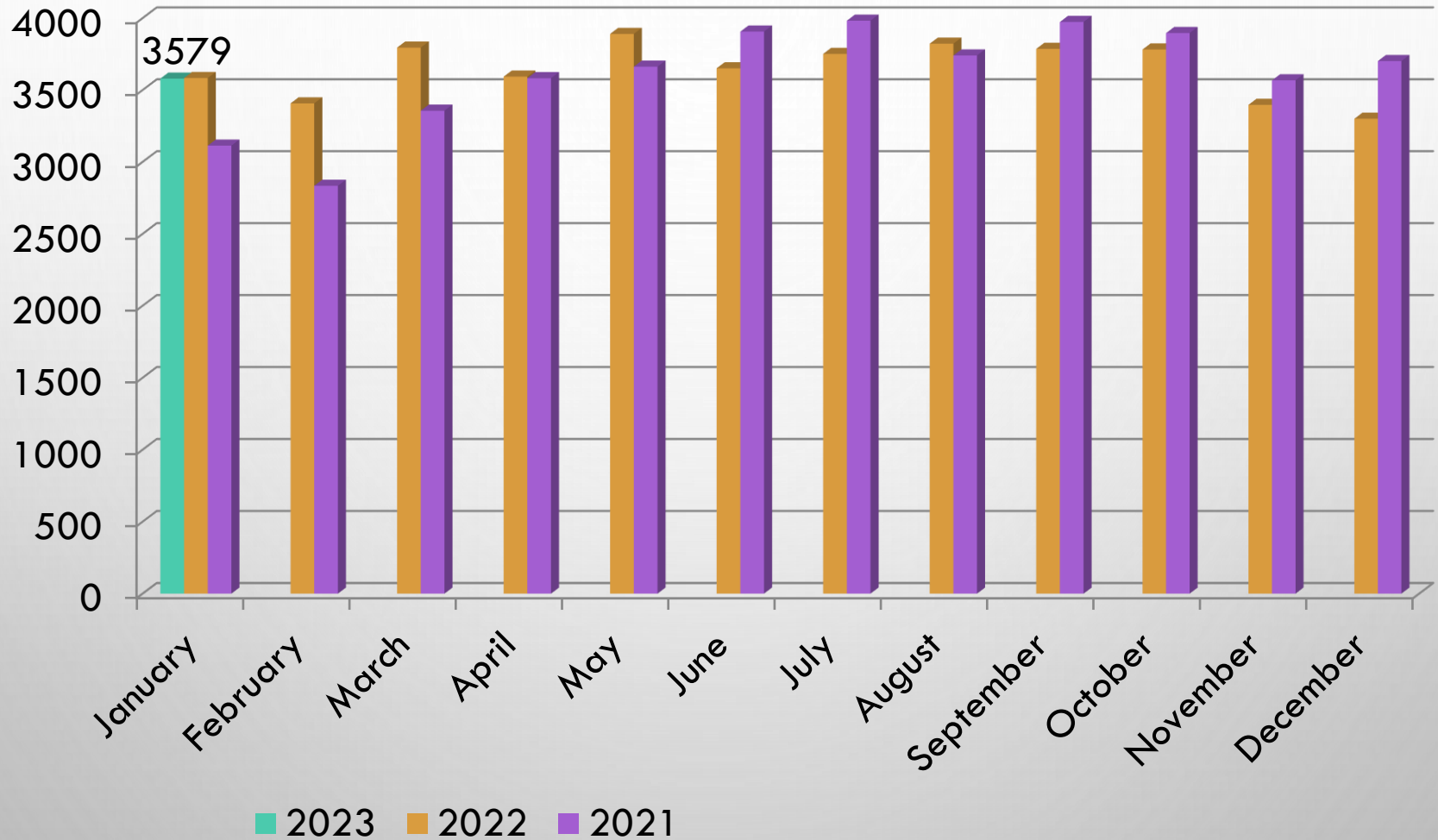
The Owatonna Police Department issued a total of 98 citations and 362 warnings in January. The top 5 citation types include speeding, stop sign violations, no insurance, invalid driver's license, and expired registration.

OWATONNA CRIME DATA

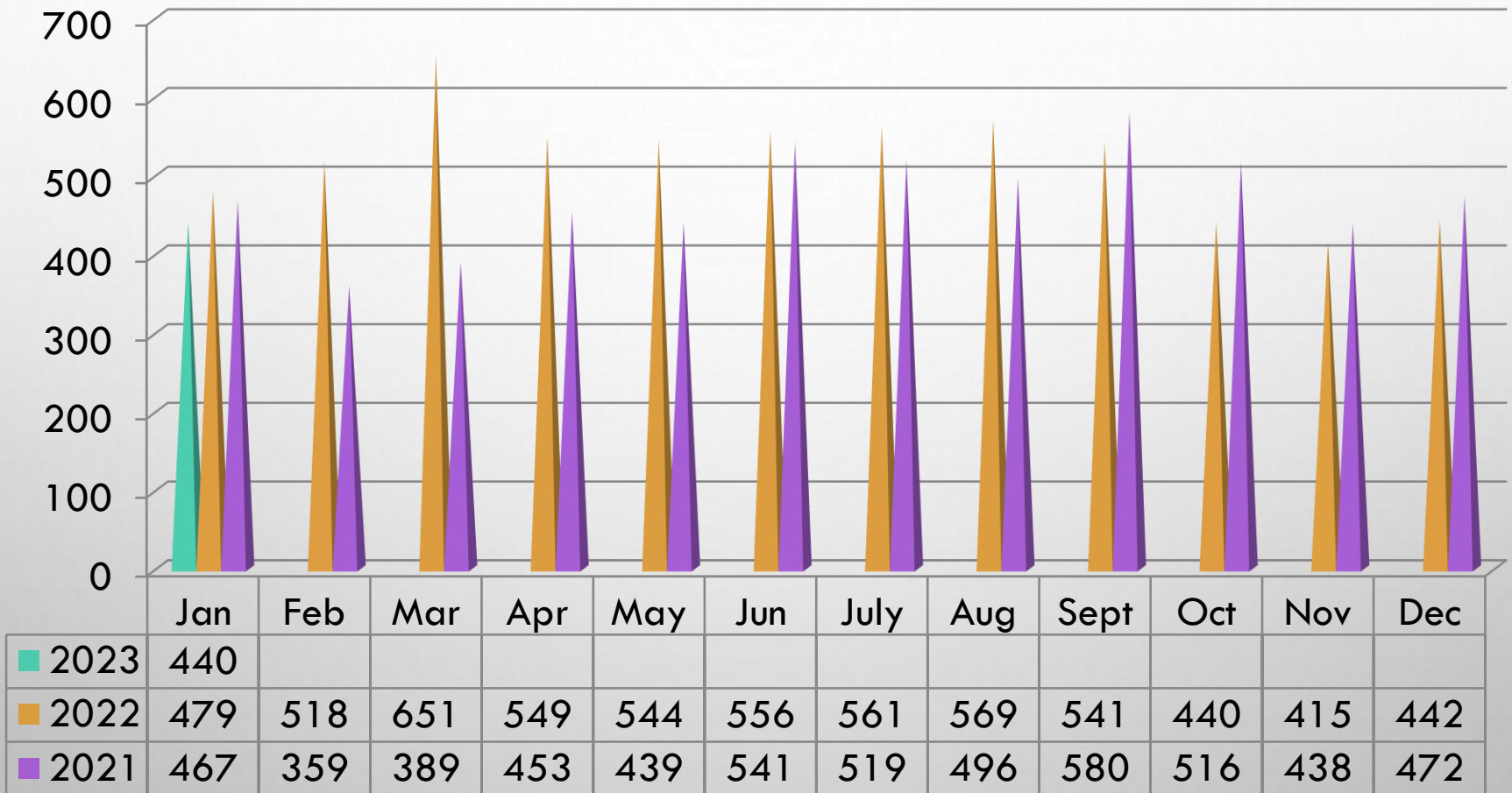
JANUARY 2023



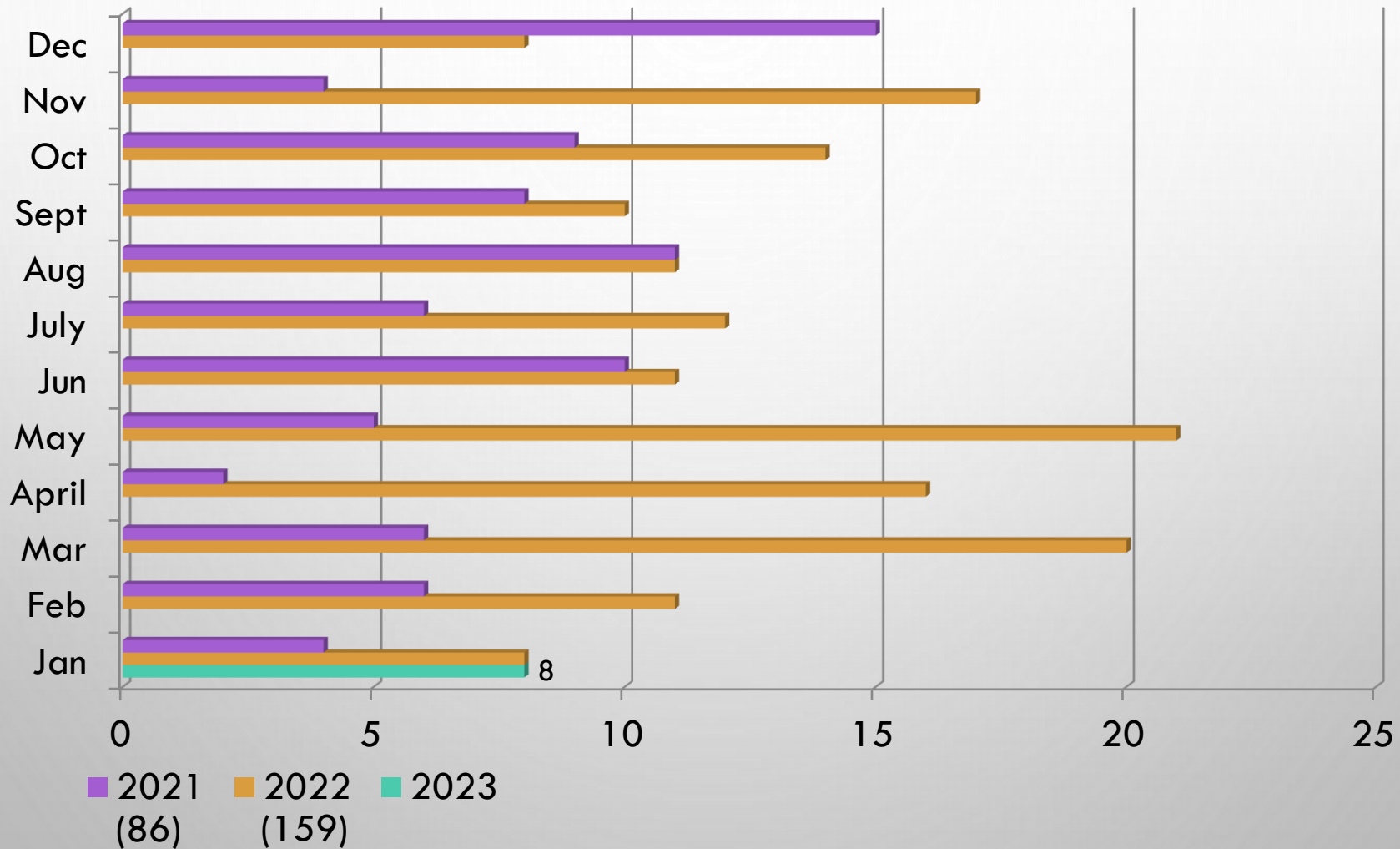
TOTAL EVENTS



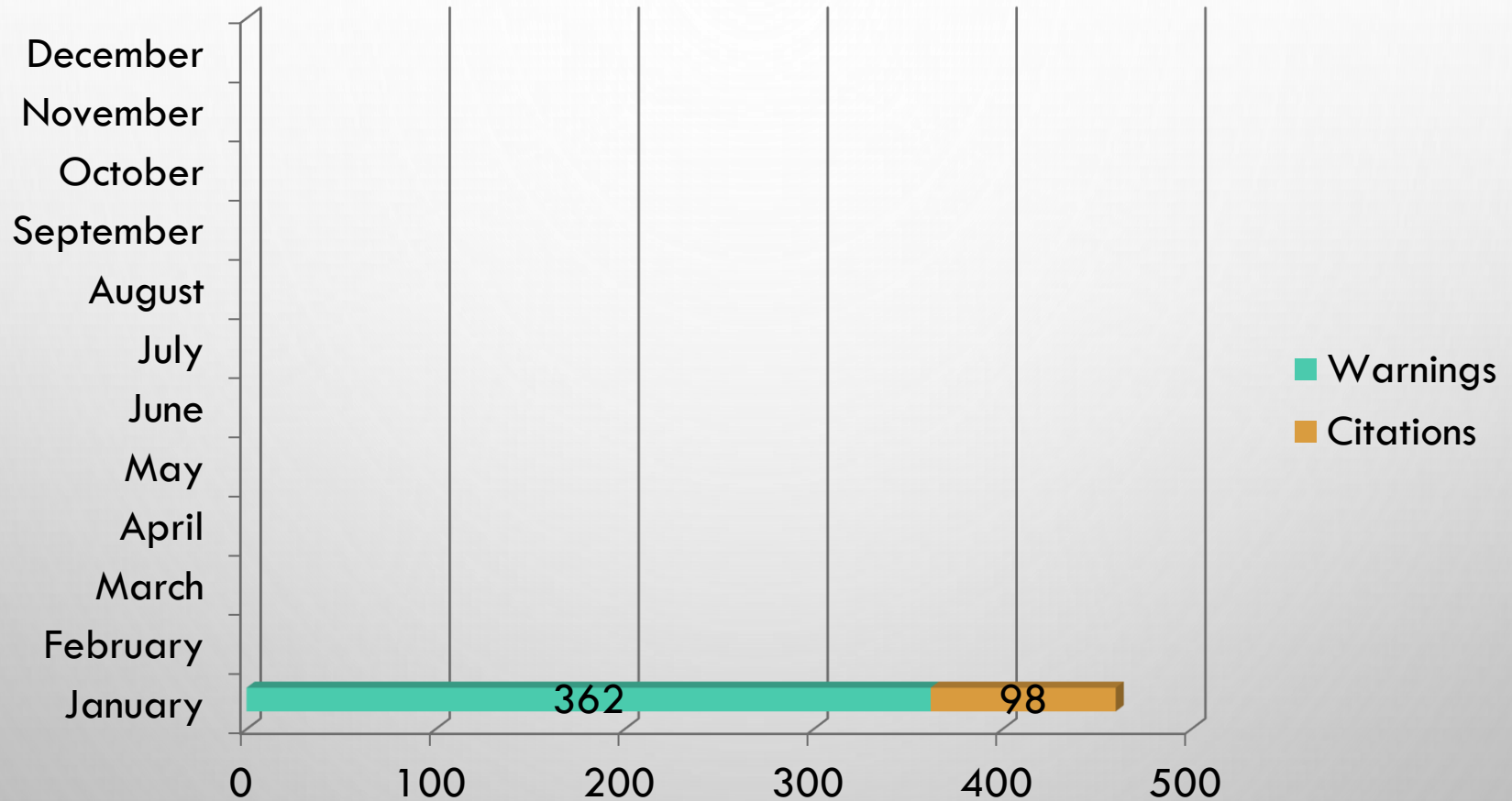
TRAFFIC STOPS



DWI



CITATIONS & WARNINGS



GROUP A CRIMES

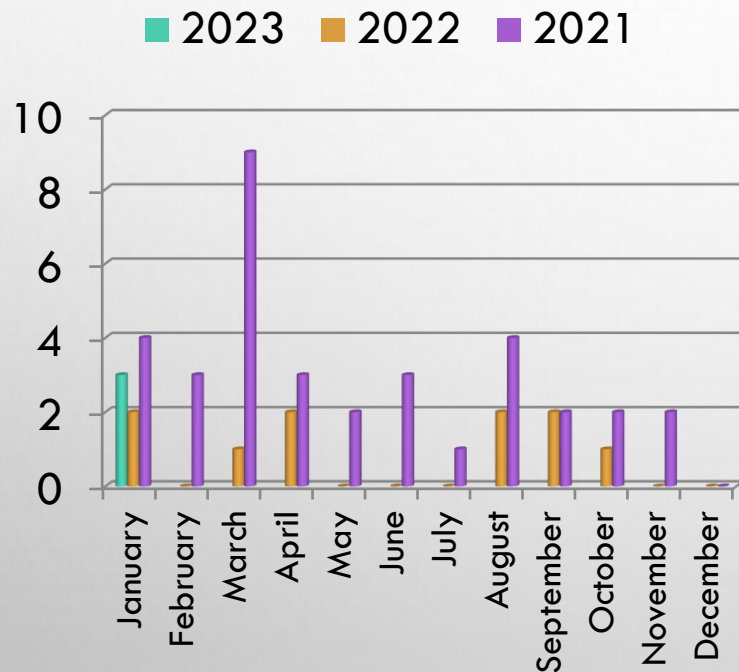
NIBRS Transition occurred 08/2020, 3-year data trend not available		2023
Kidnapping/Abduction	0	
Rape	0	
Sodomy	0	
Sexual Assault with an object	1	
Fondling	1	
Robbery	0	
Aggravated Assault	1	
Simple Assault	9	
Intimidation (Assault)	2	
Arson	0	
Burglary/Breaking & Entering	0	
Pocket-Picking	0	
Purse Snatching	0	
Shoplifting	3	
Theft From Building	3	
Theft From Motor Vehicle	0	
Theft of Motor Vehicle Parts or Accessories	0	
All Other Larceny	3	
Motor Vehicle Theft	2	
Counterfeiting/Forgery	2	
False Pretenses/Swindle/Confidence Game	0	
Credit Card/Automated Teller Machine Fraud	0	
Welfare Fraud	0	
Wire Fraud	0	
Identity Theft	2	
Stolen Property Offenses	0	
Destruction/Damage/Vandalism of Property	4	
Drug/Narcotic Violations	3	
Drug Equipment Violations	2	
Pornography/Obscene Material	0	
Bribery	0	
Weapon Law Violations	1	
Human Trafficking, Commercial Sex Acts	0	
Animal Cruelty	0	
TOTAL	39	

GROUP B CRIMES

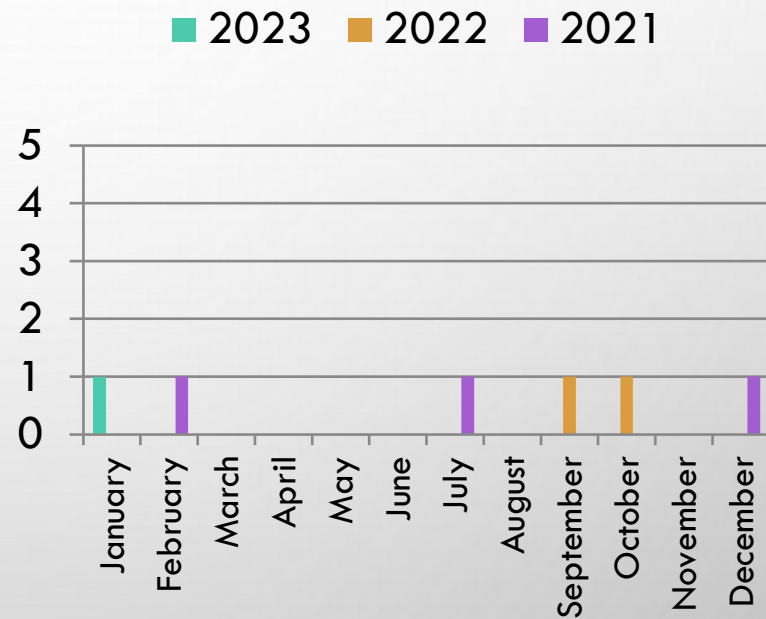
NIBRS Transition occurred 08/2020, 3-year data trend not available	2023
Curfew/Loitering/Vagrancy Violations	0
Disorderly Conduct	0
Driving Under the Influence	9
Family Offenses, Nonviolent	0
Liquor Law Violations	1
Trespass of Real Property	1
All Other Offenses	8
TOTAL	19

DISORDERLY & NUISANCE VIOLATIONS

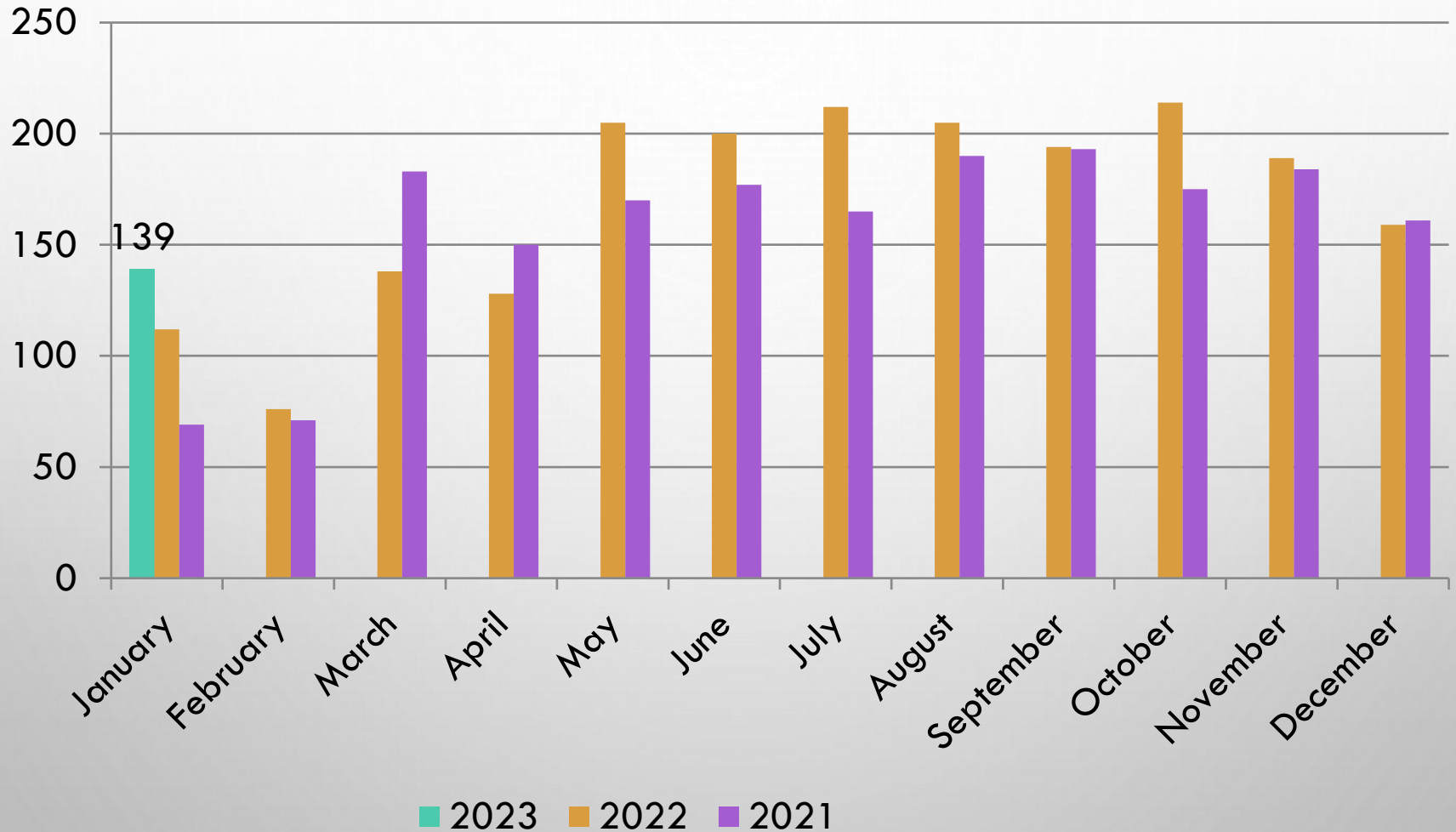
DISORDERLY VIOLATIONS



NUISANCE VIOLATIONS



ANIMAL CONTROL CALLS





Minnesota Department of Public Safety
Alcohol and Gambling Enforcement Division
445 Minnesota Street, Suite 1600, St. Paul, MN 55101
651-201-7507 TTY 651-282-6555

**APPLICATION AND PERMIT FOR A 1 DAY
TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

Name of organization		Date of organization		Tax exempt number	
Mineral Springs Brewery		June 2018			
Organization Address (No PO Boxes)		City	State	Zip Code	
111 N Walnut Avenue		Owatonna	Minnesota	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		507-413-6281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
April 29, 2023		☐ Club ☐ Charitable ☐ Religious ☐ Other non-profit			
Organization officer's name		City	State	Zip Code	
Bill Cronin - President		Owatonna	Minnesota	5560	
Organization officer's name		City	State	Zip Code	
			Minnesota		
Organization officer's name		City	State	Zip Code	
			Minnesota		

Location where permit will be used. If an outdoor area, describe.
Souba Greenhouse outdoor premises at 4003 Crane Creek Road, Owatonna.
MSB will have beer and sodas for sale during the Souba Spring Open House

If the applicant will contract for intoxicating liquor service give the name and address of the liquor license providing the service.

If the applicant will carry liquor liability insurance please provide the carrier's name and amount of coverage.
Cincinnati policy #ETD0503616; \$1,000,000 limit

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL AND GAMBLING ENFORCEMENT

City of Owatonna		Date Approved	
City or County approving the license		April 29, 2023	
\$50.00		Permit Date	
Fee Amount		jeanette.clawson@ci.owatonna.mn.us	
Event in conjunction with a community festival ☐ Yes ☒ No		City or County E-mail Address	
26,386			
Current population of city			

Kris M. Busse, City Administrator
Please Print Name of City Clerk or County Official

Signature City Clerk or County Official

**CLERKS NOTICE: Submit this form to Alcohol and Gambling Enforcement Division 30 days prior to event
No Temp Applications faxed or mailed. Only emailed.**

ONE SUBMISSION PER EMAIL, APPLICATION ONLY.

**PLEASE PROVIDE A VALID E-MAIL ADDRESS FOR THE CITY/COUNTY AS ALL TEMPORARY
PERMIT APPROVALS WILL BE SENT BACK VIA EMAIL. E-MAIL THE APPLICATION SIGNED BY
CITY/COUNTY TO AGE.TEMPORARYAPPLICATION@STATE.MN.US**



Minnesota Department of Public Safety
Alcohol and Gambling Enforcement Division
445 Minnesota Street, Suite 1600, St. Paul, MN 55101
651-201-7507 TTY 651-282-6555

**APPLICATION AND PERMIT FOR A 1 DAY
TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

Name of organization		Date of organization		Tax exempt number	
Mineral Springs Brewery		June 2018			
Organization Address (No PO Boxes)		City	State	Zip Code	
111 N Walnut Avenue		Owatonna	Minnesota	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		507-413-6281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
June 16, 2023		☐ Club ☐ Charitable ☐ Religious ☐ Other non-profit			
Organization officer's name		City	State	Zip Code	
Bill Cronin - President		Owatonna	Minnesota	5560	
Organization officer's name		City	State	Zip Code	
			Minnesota		
Organization officer's name		City	State	Zip Code	
			Minnesota		

Location where permit will be used. If an outdoor area, describe.

MSB will be selling beer at the Federated Insurance Companies Celebration at he Steele County Fairgrounds.

If the applicant will contract for intoxicating liquor service give the name and address of the liquor license providing the service.

If the applicant will carry liquor liability insurance please provide the carrier's name and amount of coverage.
Cincinnati policy #ETD0503616; \$1,000,000 limit

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL AND GAMBLING ENFORCEMENT

City of Owatonna		Date Approved	
City or County approving the license		June 16, 2023	
\$50.00		Permit Date	
Fee Amount		jeanette.clawson@ci.owatonna.mn.us	
Event in conjunction with a community festival ☐ Yes ☒ No		City or County E-mail Address	
26,386			
Current population of city			
Kris M. Busse, City Administrator			
Please Print Name of City Clerk or County Official		Signature City Clerk or County Official	

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CITY/COUNTY TO AGE.TEMPORARYAPPLICATION@STATE.MN.US**



Minnesota Department of Public Safety
Alcohol and Gambling Enforcement Division
445 Minnesota Street, Suite 1600, St. Paul, MN 55101
651-201-7507 TTY 651-282-6555
**APPLICATION AND PERMIT FOR A 1 DAY
TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

Name of organization		Date of organization		Tax exempt number	
Mineral Springs Brewery		June 2018			
Organization Address (No PO Boxes)		City	State	Zip Code	
111 N Walnut Avenue		Owatonna	Minnesota	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		507-413-6281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
September 22 & 23, 2023		☐ Club ☐ Charitable ☐ Religious ☐ Other non-profit			
Organization officer's name		City	State	Zip Code	
Bill Cronin - President		Owatonna	Minnesota	5560	
Organization officer's name		City	State	Zip Code	
			Minnesota		
Organization officer's name		City	State	Zip Code	
			Minnesota		

Location where permit will be used. If an outdoor area, describe.

MSB will be selling beer on our extended premises for our OktoberFest Celebration.

If the applicant will contract for intoxicating liquor service give the name and address of the liquor license providing the service.

If the applicant will carry liquor liability insurance please provide the carrier's name and amount of coverage.
Cincinnati policy #ETD0503616; \$1,000,000 limit

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL AND GAMBLING ENFORCEMENT

City of Owatonna		Date Approved	
City or County approving the license		September 22 & 23, 2023	
\$50.00		Permit Date	
Fee Amount		jeanette.clawson@ci.owatonna.mn.us	
Event in conjunction with a community festival ☐ Yes ☒ No		City or County E-mail Address	
26,386			
Current population of city			

Kris M. Busse, City Administrator
Please Print Name of City Clerk or County Official

Signature City Clerk or County Official

**CLERKS NOTICE: Submit this form to Alcohol and Gambling Enforcement Division 30 days prior to event
No Temp Applications faxed or mailed. Only emailed.**

ONE SUBMISSION PER EMAIL, APPLICATION ONLY.

**PLEASE PROVIDE A VALID E-MAIL ADDRESS FOR THE CITY/COUNTY AS ALL TEMPORARY
PERMIT APPROVALS WILL BE SENT BACK VIA EMAIL. E-MAIL THE APPLICATION SIGNED BY
CITY/COUNTY TO AGE.TEMPORARYAPPLICATION@STATE.MN.US**



Human Resources Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Emily Thamert, Director
SUBJECT: Gallagher: Ongoing Project Agreement and Scope of Work

Purpose:

Approve the Ongoing Project Agreement and Scope of Work with Gallagher.

Background:

The City approved a Master Agreement for Professional Services with Gallagher in 2022. The Ongoing Project Agreement and Scope of Work with Gallagher will include ongoing evaluations, market pricing, job description, and other classification & compensation services. These ongoing services with Gallagher will be utilized in administering and maintaining compensation for City of Owatonna employees, in alignment with the Compensation Plan.

Budget Impact:

The budget impact of these ongoing services is anticipated to be \$4,000 annually, subject to change based on needs each year.

Staff Recommendation:

Staff recommends approval of the Ongoing Project Agreement and Scope of Work with Gallagher.

Attachments:

1. Gallagher - 2023 Ongoing Project Agreement Scope of Work



Insurance | Risk Management | Consulting

AGREEMENT

After having reviewed the proposal prepared by Gallagher for Compensation Consultant Services for

City Owatonna, MN

We, the undersigned, being the authorized officers of our respective organizations, do hereby indicate our acceptance in principle and our general intent to proceed with the following project(s):

- ☐ Ongoing Evaluations, Market Pricing, Job Descriptions, and other classification & compensation services

We both understand that the total price is firm for all project components outlined in this proposal. Gallagher will invoice the organization as indicated in the Professional Fees section included in this proposal, and a schedule of payments is outlined. Upon execution, this proposal becomes a Project Assignment.

Being duly authorized officers of our respective corporations, we agree to the terms specified in this proposal.

Gallagher Benefit Services, Inc.

By: 
Mike Verdoorn, Managing Principal

Date: January 19, 2023

City of Owatonna, MN

By: _____
Authorized Signee

Date: _____

Title

SCOPE OF SERVICES

Job Evaluation: Includes review of the updated PDQ or job description, conversations with the incumbent, supervisor, and Employee Relations as needed, and a formal job evaluation memo. The cost is \$500 per unique job title.

Updated/New Job Descriptions: Includes review of PDQ, conversations with incumbent, supervisor, and Human Resources as needed, and review of the updated/new job description. The cost is \$500 per job description.

Pay Equity: Includes review of employee compensation using the MN Pay Equity Reporting System to ensure compliance with local government pay equity law. The cost is \$1,000 - \$2,500 depending on nature of data preparation, modelling and testing of multiple scenarios and analysis of corrective measures.

Market Pricing: Includes review of the updated PDQ or job description, conversations with the incumbent, supervisor, and Employee Relations as needed, and a formal memo and market pricing worksheet detailing the market data. The cost is \$500 per job title.

Annual Update to Salary Structure: Includes review of market adjustment, calculation of new salary structure and potential cost impact on employees, and formal memo detailing the salary structure adjustment process. The cost is between \$500-\$1,000 depending on number of conversations needed to clarify process and results.

Recalibration of Salary Structure: The estimated cost for this is between \$15,000-\$30,000 depending on the scope requested.

Above costs may be modified based on the grouping or structure of request.

RECAP:

\$	26,870.00	Central Farm Service - fuel
	24,138.70	City of Blooming Prairie - 2022 Library Funding
	58,578.17	Electric Pump Inc - Replace 24th Ave Lift Station pumps & repair Greenleaf Dr lift
	79,422.62	Nero Engineering - January WWTF professional services
	579,565.04	Rice Lake Construction - January WWTF Expansion Est 8
	130,032.88	Southeast Service Cooperative - January Health Insurance Premiums
	20,000.00	Stadheim Properties - EDA Forgivable loan
	80,018.41	Tri State Bobcat - 2022 Compact Track Loader
	32,355.83	WHKS - December 2022 Surface Water Management Plan services
	<u>208,731.37</u>	OTHER EXPENDITURES
\$	<u><u>1,239,713.02</u></u>	TOTAL EXPENDITURES PRESENTED FOR APPROVAL

NOTE: Checks over \$20,000 are detailed out individually

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
Cash Account: 999-19100-000-000-000000					
372081	01/20/23	FULLSTEAM	67.25	R	Wire Transfer
372082	01/20/23	GLOBAL PAYMENTS INTEGRATED	1,957.72	R	Wire Transfer
372083	01/20/23	MERCHANT SERVICES	50.66	R	Wire Transfer
372084	01/20/23	MN DEPT OF LABOR AND INDUSTRY	417.85	R	Wire Transfer
372085	01/20/23	MN DEPT OF REVENUE	2,077.96	R	Wire Transfer
372086	01/20/23	SOUTHEAST SERVICE COOPERATIVE	130,032.88	R	Wire Transfer
372087	01/20/23	US BANK	17,230.32	R	Wire Transfer
372088	01/20/23	WEX BANK	1,037.54	R	Wire Transfer
372089	01/20/23	WEX HEALTH INC	349.25	R	Wire Transfer
372090	02/14/23	ALEXANDER LUMBER COMPANY	80.26	0	Regular
372091	02/14/23	APG MEDIA OF SO MINNESOTA LLC	510.00	0	Regular
372092	02/14/23	ARAMARK UNIFORM SERVICES INC	225.84	0	Regular
372093	02/14/23	ARROW ACE HARDWARE	128.46	0	Regular
372094	02/14/23	ASPEN MILLS	1,043.85	0	Regular
372095	02/14/23	BAKER & TAYLOR BOOKS	701.44	0	Regular
372096	02/14/23	BCA/TRAINING & DEVELOPMENT	266.00	0	Regular
372097	02/14/23	BCT MINNEAPOLIS	60.15	0	Regular
372098	02/14/23	BELL OPTICAL	190.91	0	Regular
372099	02/14/23	BLOCK PLUMBING & HEATING	140.00	0	Regular
372100	02/14/23	CARGILL INC	11,309.14	0	Regular
372101	02/14/23	CARQUEST	802.54	0	Regular
372102	02/14/23	CBM LLC	76.94	0	Regular
372103	02/14/23	CENGAGE LEARNING INC/GALE	25.60	0	Regular
372104	02/14/23	CENTRAL FARM SERVICE	26,870.00	0	Regular
372105	02/14/23	CENTURY COLLEGE	1,100.00	0	Regular
372106	02/14/23	CINTAS	57.55	0	Regular
372107	02/14/23	CITY OF BLOOMING PRAIRIE	24,138.70	0	Regular
372108	02/14/23	CLAREYS SAFETY EQUIPMENT	3,099.69	0	Regular
372109	02/14/23	CLUB PROPHET SYSTEMS	135.00	0	Regular
372110	02/14/23	CONTINENTAL RESEARCH CORP	2,230.82	0	Regular
372111	02/14/23	COURT SPORTS & MORE	64.00	0	Regular
372112	02/14/23	COVERALL OF THE TWIN CITIES	2,413.41	0	Regular
372113	02/14/23	COVERTTRACK GROUP, INC.	3,410.00	0	Regular
372114	02/14/23	CURT'S TRUCK & DIESEL SERVICE	194.76	0	Regular
372115	02/14/23	CUSTOM COMMUNICATIONS INC	17,285.00	0	Regular
372116	02/14/23	D & M CONSTRUCTION LLC	2,676.00	0	Regular
372117	02/14/23	DAVE SYVERSON	1,501.39	0	Regular
372118	02/14/23	ELECTRIC PUMP INC	58,578.17	0	Regular
372119	02/14/23	ET&T DISTRIBUTORS INC	3,179.20	0	Regular
372120	02/14/23	FARMERS FEED AND PET SUPPLY	79.98	0	Regular
372121	02/14/23	FASTENAL COMPANY	48.00	0	Regular
372122	02/14/23	FIRST AID CORP	198.59	0	Regular
372123	02/14/23	FIRST HOSPITAL LABORATORIES IN	582.33	0	Regular
372124	02/14/23	FIRST SUPPLY OWATONNA	216.01	0	Regular

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
372125	02/14/23	FLOW MEASUREMENT AND CONTROL	407.00	0	Regular
372126	02/14/23	FOUR SEASONS ELECTRIC	2,049.65	0	Regular
372127	02/14/23	HAWKINS INC	13,769.72	0	Regular
372128	02/14/23	HEIMAN INC	425.00	0	Regular
372129	02/14/23	HILLYARD INC	3,406.61	0	Regular
372130	02/14/23	HOTSY EQUIPMENT CO INC	296.00	0	Regular
372131	02/14/23	HOUSE OWATONNA	425.37	0	Regular
372132	02/14/23	I U O E LOCAL 70	5,298.66	0	Regular
372133	02/14/23	IFACS	427.79	0	Regular
372134	02/14/23	INNOVATIVE OFFICE SOLUTIONS	657.91	0	Regular
372135	02/14/23	JASON MARSHALL STAYTON	2,590.00	0	Regular
372136	02/14/23	JEANETTE CLAWSON	69.39	0	Regular
372137	02/14/23	JJD COMPANIES LLC	510.00	0	Regular
372138	02/14/23	LARRY THORNHILL	160.00	0	Regular
372139	02/14/23	LAWSON AUTOMOTIVE LLC	117.33	0	Regular
372140	02/14/23	LAWSON PRODUCTS	683.33	0	Regular
372141	02/14/23	LEAGUE OF MN CITIES	3,780.00	0	Regular
372142	02/14/23	LINCOLN SUPPLIERS INC	694.40	0	Regular
372143	02/14/23	MACQUEEN EQUIPMENT CO	46.59	0	Regular
372144	02/14/23	MARCO TECHNOLOGIES LLC	115.64	0	Regular
372145	02/14/23	MEDFORD SAND AND GRAVEL LLC	2,126.70	0	Regular
372146	02/14/23	METRO SALES INC	45.17	0	Regular
372147	02/14/23	MICHAEL BEACH COACHING & CONSU	400.00	0	Regular
372148	02/14/23	MIDWEST TAPE LLC	1,351.61	0	Regular
372149	02/14/23	MIKE JOHNSON	180.82	0	Regular
372150	02/14/23	MINER'S OUTDOOR & RECREATION	1,085.36	0	Regular
372151	02/14/23	MN CHIEFS OF POLICE ASSN	241.00	0	Regular
372152	02/14/23	MN DEPT OF LABOR AND INDUSTRY	20.00	0	Regular
372153	02/14/23	MN DRIVER & VEHICLE SERVICES	14.25	0	Regular
372154	02/14/23	MN PUBLIC EMPLOYEES ASSOC	2,784.00	R	ACH
372155	02/14/23	MN RECREATION & PARK ASSN	2,339.00	0	Regular
372156	02/14/23	MRI SOFTWARE LLC	350.00	0	Regular
372157	02/14/23	MTI DISTRIBUTING INC	2,782.70	0	Regular
372158	02/14/23	NERO ENGINEERING	79,422.62	0	Regular
372159	02/14/23	NICOLE MATEJCEK	45.00	0	Regular
372160	02/14/23	NORTHLAND FARM SYSTEMS	569.56	0	Regular
372161	02/14/23	OAK GLENN	251.00	0	Regular
372162	02/14/23	OWATONNA COMMUNITY EDUCATION	1,470.00	0	Regular
372163	02/14/23	OWATONNA GROUNDMASTERS INC	1,377.00	0	Regular
372164	02/14/23	OWATONNA HEATING & COOLING INC	2,527.00	0	Regular
372165	02/14/23	OWATONNA MOTOR COMPANY	3,868.51	0	Regular
372166	02/14/23	P&R CONSTRUCTION LLC	3,681.50	0	Regular
372167	02/14/23	PAAPE COMPANIES INC	1,187.70	0	Regular
372168	02/14/23	PLUNKETT'S PEST CONTROL INC	984.69	0	Regular
372169	02/14/23	POLYDYNE INC	4,508.00	R	ACH

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
372170	02/14/23	PRECISION LINING & SEWER LLC	1,453.50	0	Regular
372171	02/14/23	PRIME GARAGE DOOR & MORE LLC	3,890.00	0	Regular
372172	02/14/23	R & R PRODUCTS INC	991.95	0	Regular
372173	02/14/23	RICE LAKE CONSTRUCTION GROUP	579,565.04	0	Regular
372174	02/14/23	ROCON INCORPORATED	1,275.00	0	Regular
372175	02/14/23	RUTH WILLIAMS	248.19	0	Regular
372176	02/14/23	SCHILLING SUPPLY CO	182.89	0	Regular
372177	02/14/23	SCOTT F LIMBERG	250.00	0	Regular
372178	02/14/23	SELCO	2,798.00	0	Regular
372179	02/14/23	SHERWIN WILLIAMS COMPANY	235.27	0	Regular
372180	02/14/23	SHI CORP	2,129.41	0	Regular
372181	02/14/23	SPLIT ROCK MANAGEMENT INC	3,969.00	0	Regular
372182	02/14/23	STADHEIM PROPERTIES	20,000.00	0	Regular
372183	02/14/23	STATE INDUSTRIAL PRODUCTS	635.80	0	Regular
372184	02/14/23	STEELE COUNTY TREASURER	6,052.25	0	Regular
372185	02/14/23	STEWART DENISE	203.40	0	Regular
372186	02/14/23	STEWART SANITATION	1,593.56	0	Regular
372187	02/14/23	SYNCHRONY BANK - LOWE'S	524.58	0	Regular
372188	02/14/23	TEMPLE ELECTRIC MOTOR SERV INC	959.00	0	Regular
372189	02/14/23	TENNIS WEST	1,000.00	0	Regular
372190	02/14/23	TERRACON CONSULTANTS INC	5,532.50	0	Regular
372191	02/14/23	THOMSON REUTERS	505.59	0	Regular
372192	02/14/23	TRI M GRAPHICS	1,201.68	0	Regular
372193	02/14/23	TRI STATE BOBCAT	80,018.41	0	Regular
372194	02/14/23	TURFWERKS	2,491.92	0	Regular
372195	02/14/23	UNITED WAY	435.00	0	Regular
372196	02/14/23	USABUEBOOK	286.28	0	Regular
372197	02/14/23	UTILITY CONSULTANTS INC	2,227.58	0	Regular
372198	02/14/23	VENTURE HYDRAULICS INC	539.71	0	Regular
372199	02/14/23	VERIZON WIRELESS	331.64	0	Regular
372200	02/14/23	WALBRAN & FURNESS CHARTERED	5,144.66	R	ACH
372201	02/14/23	WASECA POLICE DEPARTMENT	6,355.91	0	Regular
372202	02/14/23	WASTE MANAGEMENT OF WI-MN	326.06	0	Regular
372203	02/14/23	WHKS	2,730.00	0	Regular
372204	02/14/23	WHKS	32,355.83	0	Regular
372205	02/14/23	WSB & ASSOCIATES INC	1,553.50	0	Regular
372206	02/14/23	MATTHEW R HOKANSON	2,595.17	0	Regular
372207	02/14/23	INSTITUTE FOR ENVIRON ASSMT	740.00	0	Regular

to

115	Checks total:	1,074,054.93
3	ACH total:	12,436.66
0	EFTPS total:	
9	Wire transfer total:	153,221.43
0	Payment Manager total:	
127	GRAND TOTALS	1,239,713.02



Owatonna Fire Fighters
Relief Association

107 West Main Street
Owatonna, Minnesota 55060-2913

Ryan Seykora
Secretary
Phone (507)227-9049

DATE: February 6, 2023
TO: Mayor and City Council, City Administrator
FROM: Ryan Seykora. Secretary
SUBJECT: Pension Increase

Purpose:

Approval Resolution 18-23 approving an increase of \$1,000 in retirement pension.

Background:

Annually, the Relief Association reviews the percent funded of the account. Guidelines previously approved by council are as follows. Currently fund requirements are a minimum of 120% funded with additional fund percentages to increasing the pension lump sum.

Budget Impact:

This Increase should not affect nor impact city budget unless fund becomes underfunded which is in the 80% funded range. Revenue for the increase is funded by receiving 2% insurance premium, and supplemental government aid from the State of Minnesota, and investments within the association.

Staff Recommendations:

Staff recommends approval of Resolution 18-23.

If you have any questions or concerns regarding this issue, please contact me. Sincerely,

Ryan J. Seykora

Ryan J. Seykora
Secretary

RESOLUTION NO. 18-23

A RESOLUTION APPROVING AN INCREASE
FOR FIRE FIGHTERS PENSION

WHEREAS, the Owatonna Firefighters Relief Association has served as a collective arm of the Owatonna Fire Department since 1895; and

WHEREAS, the Owatonna Firefighters Relief Association manages the pension account for the Owatonna Fire Fighters; and

WHEREAS, the City of Owatonna has set guidelines for management of the fire fighters pension account which requires a minimum of 120% funded, and

WHEREAS, the Owatonna Firefighters Relief Association has reviewed the current fund balance and request a pension increase of \$1,000 per year to \$10,500 as a level of benefit.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OWATONNA, MINNESOTA, AS FOLLOWS,

The Owatonna Firefighters Pension amount will receive an increase by \$1,000 to \$10,500 benefit level for 2023.

Passed and adopted this ____ day of _____, 2023, with the following vote:

Aye ____; No ____; Absent ____.

Approved and signed this ____ day of _____, 2023.

Thomas A. Kuntz, Mayor

ATTEST:

Kris M. Busse, City Administrator/City Clerk



Community Development Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Greg Kruschke, Community Development Manager
SUBJECT: Resolution 19-23: RZ-1, Add PUD Overlay Zone to 3325 9th Street NW

Purpose:

Council approval of Resolution 19-23 for approval of Application No. RZ-1. This application was received from Stephanie Hansen, Owatonna Cheer LLC, holder of a lease agreement with 8th Street Owatonna LLC. This is a request to rezone the property at 3325 0th Street NW and add an Overlay PUD, Planned Unit Development on the I-2, Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility, the former SMART Transit building.

Background:

See Attached.

Budget Impact:

None.

Staff Recommendation:

Staff and the Planning Commission recommend approval of Resolution 19-23 approving Application No. RZ-1.

Attachments:

1. Res 19-23 RZ-1 PUD Overlay Zone 3325 9th St NW - Competition Cheerleadng
2. Staff Report - RZ-1 PUD Overlay Zone 3325 9th St NW

RESOLUTION NO. 19-23

A RESOLUTION APPROVING PUD OVERLAY DISTRICT FOR RZ-1

WHEREAS, Application No. RZ-1, by Stephanie Hansen, Owatonna Cheer LLC, holder of a lease agreement with 8th Street Owatonna LLC, a request for rezoning of a property to add an Overlay PUD, Planned Unit Development on the I-2, Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW and legally described in the attached Exhibit A; and

WHEREAS, The Planning Commission held a public hearing on February 14, 2023 and recommended approval of RZ-1; and

WHEREAS, on February 21, 2023, the City Council accepted and approved RZ-1, as the same was approved and recommended by the Planning Commission of the City; and

WHEREAS, the City Council concurs with all of the findings of the Planning Commission and hereby makes the identical findings as referenced in the C-1425 Staff Report.

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

1. That said PUD Overlay District is in accordance with and conformity to the plans and regulations established by the City and the comprehensive plan for the development of the City.
2. The PUD Overlay District for a competition cheerleading facility as presented and recommended by Staff and the Planning Commission is hereby approved with the following conditions:
 - a) The west side of the parking lot shall be striped to designate the parking stalls.
 - b) No events shall be held at the facility, only practices.
 - c) No other uses shall be permitted in this building during the hours of 5-9pm when the cheerleading program is practicing.
 - d) Any additional uses in this building shall be approved by the City to ensure proper separation of traffic and the interior of the building to keep all occupants safe.
3. That the Clerk cause a certified copy of this resolution to be filed in the office of the County Recorder of Steele County, Minnesota.

Passed and adopted this ____ day of _____, 2023 with the following vote:

Aye ____; No ____; Absent ____.

Approved and signed this ____ day of _____, 2023.

Thomas A. Kuntz, Mayor

ATTEST:

Kris M. Busse, City Administrator/City Clerk

EXHIBIT A

Lot 2, Block 1, Jannings Addition,
Steele County, Minnesota

February 10, 2023

To: Planning Commission

From: Community Development Department

RE: Application No. RZ-1, by Stephanie Hansen, Owatonna Cheer LLC, holder of a lease agreement with 8th Street Owatonna LLC, a request for rezoning of a property to add an Overlay PUD, Planned Unit Development on the I-2, Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW.

Application Review:

Applicant: Stephanie Hansen, Owatonna Cheer LLC

Owner: 8th Street Owatonna LLC

Legal Description: Lot 2, Block 1, Jannings Addition

Existing Zoning: I-2, Heavy Industrial District

Existing Land Use: The property is currently a vacant building. It was most recently used as the bus garage and offices for SMART Bus.

Adjacent Zoning & Land Uses: North: Industrial Use zoned I-2

South: Industrial Use zoned I-2

East: Industrial Use zoned I-2

West: Industrial Use zoned I-2

Report Attachments:

1. Application Materials
2. Location Maps

Proposed Development:

- ◆ Application No. RZ-1, by Stephanie Hansen, Owatonna Cheer LLC, holder of a lease agreement with 8th Street Owatonna LLC, a request for rezoning of a property to add an Overlay PUD, Planned Unit Development on the I-2, Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW.
- ◆ The applicant has been looking for a property for this use for a few years. Due to the space requirements and clear space, building are very difficult to find.

- ◆ Per the applicant “We have a unique requirement that we need at least 16' tall ceiling height due to the stunting we do in cheerleading. In addition, a cheer floor is 42'x54', so we need a large clear space (no poles in the middle).”
- ◆ Due to the uniqueness of the space requirements, only industrial buildings and gymnasiums work.
- ◆ The applicant states that they will operate from 5-9pm 6 days a week. Participants will enter the building and coaches will be present to run the practices.
- ◆ The applicant is only planning on practicing in the facility. Events and competitions will not be held here.
- ◆ Parking for the facility is currently striped for 11 stalls. An additional 12 stalls would be able to be striped on the west side of the existing parking lot to allow for additional parking. There is a paved area on the east side of the building however it only lays out for one row of parking and requires access through an existing gravel area.
- ◆ If parking is just for practice and staff there should not be an issue. The additional stalls should cover the need as the majority would be drop off. However, no events would be permitted in this facility.
- ◆ Each team has 15 kids at this time. There are two teams. Generally, one practice runs from 5-7 and one from 7-9.
- ◆ Staff has concern with this type of use within the Industrial Park, however, does understand the constraints.
If this use is permitted it will allow for this Competition Cheerleading program to be permitted in this building as part of the overlay PUD for this property. This overlay district will not allow any other commercial type uses in this building. All other permitted uses will revert back to the I-2 uses.

Staff Review:

Staff feels that the proposed overlay rezoning would fit in with the surroundings and the desired use of this property as designated within the Owatonna Development Plan. Staff is recommending approval of the rezoning of a property to add an Overlay PUD, Planned Unit Development on the I-2, Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW with the following conditions.

- 1) The west side of the parking lot shall be striped to designate the parking stalls.
- 2) No events shall be held at the facility, only practices.
- 3) No other uses shall be permitted in this building during the hours of 5-9pm when the cheerleading program is practicing.
- 4) Any additional uses in this building shall be approved by the City to ensure proper separation of traffic and the interior of the building to keep all occupants safe.

Planning Commission:

Application No. RZ-1, which is a request by Stephanie Hansen, Owatonna Cheer LLC, a holder of a lease agreement with 8th Street Owatonna LLC, for rezoning of a property to add an Overlay PUD, Planned Unit Development, on the I-2 Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW, was presented by Community Development Manager Greg Kruschke. (Refer to report on file.) Public hearing opened at 5:34 p.m. No comments were made regarding this request. Public hearing closed at 5:35 p.m. Eickhoff asked about traffic control on Hoffman Drive and if that was a consideration. Kruschke said that it is a concern as 32nd Ave is a major industrial road. If each kid drives separately, we're talking 15 trips, so a couple a minute, which is pretty low. There is a left turn lane off Hoffman onto 32nd. Rooks asked what the rest of the building is being used for. Stephanie Hansen said that it's empty, but there were some lab rooms. She said she's paying about 80-85% of the total rent for the entire building, so the property owner is getting the majority of their requested rent. Eickhoff asked if she had looked at other buildings, but cost was a factor. She said she had looked at new construction, and that is cost and more so time prohibitive. Rooks asked about the age range. Hansen said ages 4 to 18. Rooks said that some of the kids would be able to drive. Meier said even for high school that's pretty light traffic. A motion was made by Peake and seconded by Meier to recommend approval of the rezoning request of a property to add an Overlay PUD, Planned Unit Development on the I-2 Heavy Industrial District for the purposes of allowing a competition cheerleading program to train and practice in the facility located at 3325 9th Street NW with the following conditions:

- 1) The west side of the parking lot shall be striped to designate the parking stalls.
- 2) No events shall be held at the facility, only practices.
- 3) No other uses shall be permitted in the building during the hours of 5–9 p.m. when the cheerleading program is practicing.
- 4) Any additional uses in this building shall be approved by the City to ensure proper separation of traffic and the interior of the building to keep all occupants safe.

Eickhoff asked if there could be a time limit on this request where they could review this. Kruschke said that there isn't in our code currently. Statue allows for Interim Use Permits but our ordinance is not set up for it at this point. This is about the only route that the code affords us at this time. The Planning Commission cannot put a condition on time with this request. Eickhoff said he thinks it's great, but the location and traffic concerns make him nervous.

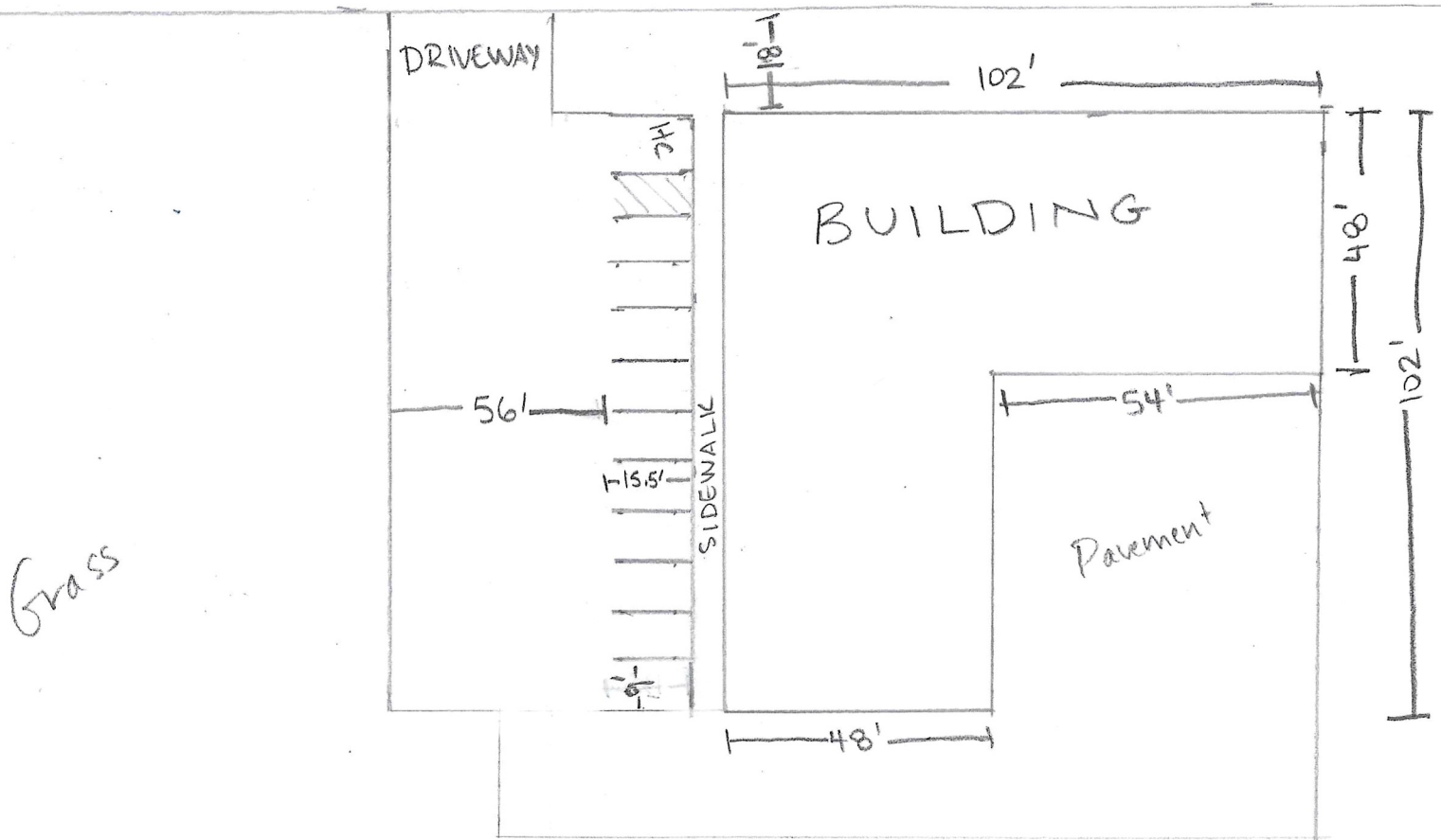
Commissioners voting Aye: Meier, Rooks, Peake, and Effertz. Commissioners voting Nay: Eickhoff. 4-1, the motion carried.

3325 9th Street NW
City of Owatonna



3325 9th St. NW
Owatonna, MN 55060

1 CM $\approx$ 13 ft.



1 Handicap Stall 11'4" wide, access lane 8' wide
10 Parking Stalls 9' wide each
All Stalls are striped 15.5' long, but there is an additional 56' of driveway space available.

What are you planning on doing?

I am the director of a youth competition cheerleading program, and we are looking for our own practice space. We would be offering cheerleading instruction from 5:00-9:00 pm, 6 days a week. We would have the cheerleaders enter the building on the West side main entrance, walk through the hallway past the front offices/bathrooms, and go to the warehouse on the North East side of the building. They would not have access to any other part of the building and would be supervised by coaching staff the entire time they are in the building. In the warehouse, we would set up a cheer floor (spring floor with a mat over the top) for use for cheer instruction. We would be teaching them the proper technique for basing, backing, flying, tumbling, and other cheerleading-related skills. All classes and team practices would be supervised by adult coaches.

Why do you feel this request should be granted?

I have been looking for a space to rent for my cheer program for 3 years. We have a unique requirement that we need at least 16' tall ceiling height due to the stunting we do in cheerleading. In addition, a cheer floor is 42'x54', so we need a large clear space (no poles in the middle). This greatly limits the available buildings. I have looked at dozens of spaces in Owatonna, and have been unable to find something that both meets our needs as well as the city's requirements. It has been an extremely difficult search, and we are unable to grow our program much more until we have our own space. We are hoping to provide even more opportunities to the youth of Owatonna.

The building at 3325 9th St. meets all of the above requirements, with the exception of zoning. We would be the only business in the building, so there would only be light commercial traffic. The building does not share a driveway or parking lot with any other businesses, so there wouldn't be a conflict there. It is one building in from the corner of 32nd Ave, which is a larger, wider road. To get to our building they would only be traveling on 9th St for less than an eighth of a mile. Between that and our hours of operation, there would be little to no crossing with industrial traffic. We feel that creating a cheerleading gym in this space would be a great fit, so please consider our request for rezoning.



Finance Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Rhonda Moen, Director
SUBJECT: Resolution 20-23: Set Date for Public Hearing to Approve Street Reconstruction Plan

Purpose:

Council approval of Resolution 20-23 setting a date for a public hearing on the City's Street Reconstruction Plan.

Background:

As part of financing the City's street reconstruction projects, there must be a public hearing on the City's proposed Street Reconstruction Plan.

Budget Impact:

No budget impact.

Staff Recommendation:

Staff recommends approval of Resolution 20-23 calling for this public hearing on March 21, 2023.

Attachments:

1. Res 20-23 Set Date for PH - Street Reconstruction Plan
2. Street Reconstruction Plan 2023-2027 - SPM

RESOLUTION NO. 20-23
RESOLUTION CALLING PUBLIC HEARING ON STREET
RECONSTRUCTION PLAN AND ISSUANCE OF BONDS

WHEREAS, the City is authorized under Minnesota Statutes, Section 475.58, subdivision 3b (the "Street Reconstruction Act"), to prepare a plan for reconstruction of streets in the City over the next five years, which includes a description of the affected streets and estimated costs (the "Street Reconstruction Plan"), and to issue general obligation bonds to finance the cost of street reconstruction activities described in the Street Reconstruction Plan (the "Street Reconstruction Bonds"); and

WHEREAS, pursuant to the Street Reconstruction Act, before adopting a Street Reconstruction Plan or issuing Street Reconstruction Bonds, the City Council is required to hold a public hearing regarding the Street Reconstruction Plan and issuance of the Street Reconstruction Bonds; and

WHEREAS, under the proposed Street Reconstruction Plan, the City will issue Street Reconstruction Bonds to finance a portion of the costs described in the Street Reconstruction Plan.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Owatonna as follows:

1. Public Hearing. This City Council shall meet on Tuesday, March 21, 2023 at 7:00 p.m. to hold a public hearing on the following matters: (a) approval of the Street Reconstruction Plan and (b) the issuance of the Street Reconstruction Bonds, all pursuant to and in accordance with the Street Reconstruction Act.

2. Notice of Hearing; Filing of Plan. The City Clerk is hereby authorized to cause a notice of the hearing, substantially in the form attached hereto as Exhibit A, to be published as required by the Street Reconstruction Act and to place a copy of the proposed Street Reconstruction Plan on file in the Clerk's office at City Hall and to make such plan available for inspection by the public.

3. City staff and consultants are authorized to take all other actions needed to bring the Street Reconstruction Plan and issuance of the Street Reconstruction Bonds before the City Council.

Passed and adopted this ____ day of _____, 2023, with the following vote:

Aye ____; No ____; Absent ____.

Approved and signed this ____ day of _____, 2023.

Thomas A. Kuntz, Mayor

ATTEST:

Kris M. Busse, City Administrator/City Clerk

EXHIBIT A

NOTICE OF PUBLIC HEARING

**STREET RECONSTRUCTION PLAN AND
NOTICE OF INTENT TO ISSUE STREET**

RECONSTRUCTION BONDS TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of the City of Owatonna, Minnesota, will meet in Council Chambers at 540 West Hills Circle, Owatonna, Minnesota, at 7:00 p.m. on Tuesday, March 21, 2023, to consider.

- (1) the adoption of a five-year street reconstruction plan (the "Plan"); and
- (2) the proposed issuance of general obligation bonds (the "Bonds") to finance certain street reconstruction projects described in the Plan, all pursuant to Minnesota Statutes, Chapter 475.58, subdivision 3b. The maximum principal amount of the Bonds to be issued under the Plan is \$3,400,000. A draft copy of the Plan is on file with the City Clerk and is available for public inspection at City Hall during regular business hours.

All interested person may appear and be heard at the public hearing either orally or in writing or may file written comments with the City Clerk before the hearing.

If a petition requesting a vote on the issuance of the Bonds, signed by voters equal to 5% of the votes cast in the City in the last general election, is filed with the City Clerk within 30 days after the public hearing (i.e. April 20,2023), the City may issue the Bonds only after obtaining approval of a majority of voters on the question at an election.

Dated: This 21st day of February 2023.

BY ORDER OF THE OWATONNA CITY COUNCIL

By: _____
Kris M. Busse, City Administrator/City Clerk

CITY OF OWATONNA, MINNESOTA
5-YEAR STREET RECONSTRUCTION PLAN

February 15, 2023

A. Background

In September 2022 the City Council held a study session for the purpose of reviewing the first year of the City's five year capital improvement needs. Included in those capital improvement needs are the City's street reconstruction projects. In order to provide financing for a portion of the cost of the street reconstruction projects described in the City's CIP, the City has determined to adopt this plan in accordance with Minnesota Statutes, Section 475.58, subd. 3b (the "Act").

B. Five-Year Street Reconstruction Plan

Following is a description of projected projects and estimated costs covering the five-year period from 2023 through 2027.

2023	School Street E	Main St to Partridge Ave SE	\$ 799,000
2023	Butternut Ave SW	Riverview Pl SW to McKinley St SW	\$ 286,900
2023	Riverview Pl SW	Butternut Ave SW to Circle	\$ 322,100
2023	Havana Road SAP	Truman to Smith	\$1,179,000
2023	18th St Roundabout	18th Street SE and CSAH 48	\$1,200,000

2023 Total \$3,787,000

2024	Hillsdale St NW	Adams Ave to Riverside Ave NW	\$ 224,100
2024	McKinley St SW	Lilac Ave SW to Oak Ave S	\$1,744,000
2024	Anderson Pl SW	McKinley St SW to Circle	\$ 191,800
2024	Redwood Pl SW	Southview St SW to South End	\$ 432,800
2024	18th Street Trail SP	Linn to Austin Road	\$ 145,000
2024	Main Street SAP	Oak to Grove	\$2,000,000

2024 Total \$4,737,700

2025	Smith Avenue SAP	Havana Road to 18th Street SE	\$1,500,000
2025	Young Dr SW	Kim Ln SW to Leo Rudolph	\$ 86,600
2025	Riverwood Dr SW	Lemond SW to Riverwood SW	\$ 133,200
2025	Kim Ln SW	Jeffrey Ln SW to Lemond Rd SW	\$1,291,700
2025	29th Avenue SP	Bixby Road to Dane Road	\$1,000,000

2025	Kirk PI NE	Ridge Rd NE to Circle	\$ 181,900
2025	State Avenue SAP	Bridge to Glendale	\$ 701,100
2025 Total			\$4,894,500
2026	18th Street SE SP	Austin Road to Cornerstone	\$2,400,000
2026	29th Avenue SP	Bixby Road to Dane Road	\$ 375,000
2026	18th Street Trail SP	Austin Road to Cornerstone	\$ 125,000
2026 Total			\$2,900,000
2027	Cedar Avenue SAP	Maple Creek Bridge to 26th Street	\$2,400,000
2027	29th Avenue SP	Bixby Road to Dane Road	\$ 875,000
2027 Total			\$3,275,000

Note: Cost estimates include engineering, construction costs, and costs of bond issuance.

C. Bonds

The City may issue general obligation bonds pursuant to the Act to finance any street reconstruction costs described in this plan. The City currently plans to issue bonds in the maximum principal amount of \$ 3,400,000 to finance year 2023 reconstruction costs. If the City determines to issue additional bonds for future reconstruction costs describe in this plan, the City will revise this plan to identify the amount of such bonds after a public hearing in accordance with the Act.



Community Development Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Troy Klecker, Director
SUBJECT: Letter of Intent to Purchase US Bank Parking Lot

Purpose:

Approve Letter of Intent to purchase US Bank parking lot on West Vine Street

Background:

The City is pursuing a parking lot reconstruction project along West Vine Street this year. The City has acquired the Monson Eye Clinic building to be part of this project. The Monson Eye Clinic will occupy this building until their new building is completed and they can move. The current lease agreement allows occupancy up to May 31, 2023. The US Bank parking lot is needed for the reconstruction project as well. Staff has been in negotiations with US Bank since the fall of 2021. With the US Bank parking lot, the City will have one main large parking lot for downtown.

The sale price is \$200,000. This would include the US Bank parking lot along West Vine Street as well as the open lot west of the US Bank building. This open lot will be used as a public walkway to connect the public parking lot to the businesses on Broadway. The City will need to construct 3 or 4 parking spaces on the back of the US Bank building off of the alley as part of the agreement. US Bank would also like to keep their free standing on Vine Street. The parking lot will be designed to accommodate the sign and an easement would need to be recorded for the sign.

Budget Impact:

The sale price is \$200,000. There will also be some survey and closing costs as part of the sale. These costs will be incorporated in the costs of the parking lot construction project.

Staff Recommendation:

Staff recommends approval of the Letter of Intent with US Bank.

Attachments:

1. LOI - 3190 - Owatonna MN - (USB RL 2.13.23)

LETTER OF INTENT

2/913/2023

Troy Klecker
City of Owatonna

RE: Proposed sale by U.S. Bank National Association, or its assigns (“Seller”), of certain property and improvements adjacent to 132 W Broadway Street in Owatonna, MN as further described herein, to the City of Owatonna (“Buyer”)

The following summarizes the Buyer’s position concerning certain terms and conditions for a sale of the Property by Seller to Buyer:

BUYER	The buyer is (if a Corporation, please provide the State of incorporation): Name: City of Owatonna, a Minnesota Municipal Corporation Address: 540 West Hills Circle City, State, Zip: Owatonna, MN 55060 Phone: 507-444-4300 Email:
PROPERTY	The “Property” shall consist of and include a “Parking Lot Parcel” and “Pedestrian Access Parcel” , as legally described on the attached <u>Exhibit A</u> .
USE	Buyer intends to use the Property for a parking lot and parking lot pedestrian access.
PURCHASE PRICE	\$200,000
EARNEST MONEY	\$6,000 to be held in escrow by Title Company.
FORM OF AGREEMENT	The parties will use Seller’s form Option Agreement, subject to such modifications as Buyer may reasonably require.
EXECUTION DATE	The date the Option Agreement is executed and delivered by both Buyer and Seller.
TITLE COMPANY	The “Title Company” shall be First American Title Insurance Company located at 121 S. 8 th Street, Suite 1250, Minneapolis, Minnesota 55402.
TITLE INSURANCE	Within five (5) business days of the Execution Date, Seller shall order from the Title Company a commitment to insure title to the Property. The commitment shall be issued on an ALTA Owner’s Form in an amount equal to the Purchase Price, and show Seller as owner of the Property, subject to permitted exceptions. Title Company shall provide access to all underlying title documents referenced therein. Seller shall pay for all

premiums related to the issuance of said Title Policy, and Buyer shall pay for the cost of any extended coverage as well as the cost of any endorsements it chooses.

DUE DILIGENCE MATERIALS

Seller shall only be obligated to provide to Buyer copies of the following due diligence materials: **None**

The due diligence materials identified in this section are collectively termed the “Due Diligence Materials”. Seller shall deliver the Due Diligence Materials to Buyer on or before the 5th business day after the Effective Date.

DUE DILIGENCE PERIOD

Buyer shall have Thirty (30) days after the Effective Date (the “**Due Diligence Period**”) to perform, at its sole cost and expense, all of its due diligence investigations with respect to the Property, including but not limited to obtaining new surveys of the sale parcels. If Buyer, in its sole and absolute discretion, is not satisfied with the Property, it may terminate the Option Agreement upon Seller’s receipt of a termination notice during the Due Diligence Period. If Buyer timely delivers the notice, the Earnest Money shall be returned to Buyer, the option agreement and the option contained herein shall become void, Buyer shall have no further rights in or to the Property, and there shall be no further obligation or liability on either of the parties hereto except for obligations or liabilities herein that are expressly stated to survive the termination of the option agreement.

CLOSING

If the Option Agreement is not terminated by Buyer during the Due Diligence Period, the “Closing” for the purchase of the Property shall occur at the offices of Title Company on or before the thirtieth (30th) day after the end of the Due Diligence Period (the “Closing Date”). Seller shall convey insurable fee simple title in and to the Property to Buyer via Quitclaim Deed. Buyer will provide all cash at closing and will not require a financing contingency.

PARKING STALLS

The Buyer will install at Buyer’s sole cost and expense, as many parking stalls that will fit (estimated 3-4) immediately behind the bank branch, all within the Seller’s property (and for Seller’s exclusive use), prior to the larger parking lot being constructed, that the Seller will maintain thereafter.

CITY COVENANTS

As a condition of Seller agreeing to sell the Property, the City of Owatonna shall ensure the following for so long as Seller or its successors continue to use the building as a banking facility:-

1. The City will allow the existing designated three 30-minute stalls to remain in the front of the bank branch.
2. The larger parking lot will have an access drive to the alleyway/new USB parking stalls/USB drive thru lanes.
3. The parking lot parcel will be incorporated into a larger parking area and timed stalls will be marked in 2-hour increments, close to the bank branch. Quantity and location to be mutually agreed upon.

4. Bank Employees shall be allowed to park in the areas of the lot not time marked during normal business hours.
5. There shall be no fees charged for this lot.

AS-IS DELIVERY

Seller shall deliver the Property to Buyer AS IS, WHERE IS and WITH ALL FAULTS, and without representation or warranty as to the use or condition of the Property.

**GOVERNMENTAL
APPROVALS PERIOD;
LOT SPLIT/
REPLAT**

Buyer will execute and pay for a lot line adjustment for the Pedestrian Access Parcel so the bank branch will remain exclusively on its own parcel. Any lot line adjustment will not affect the Sales Price if square footage is larger or smaller than estimated.

Seller shall retain ownership of the real estate adjacent to the Property that houses the branch bank (the “Seller’s Retained Parcel”).

During the Governmental Approvals Period of 30 days, Buyer shall, at its sole cost and expense and in cooperation with Seller, undertake all actions necessary to allow for the lot line adjustment or replatting of the Property and the Seller’s Retained Parcel in accordance with the City’s zoning code.

**EASEMENT
AGREEMENT(S)**

Buyer and Seller will enter into such easement agreement(s) as are required to facilitate (a) Buyer’s construction activities on a temporary basis and (b) Seller’s ongoing maintenance of the bank branch from the pedestrian access parcel, as well as the continued placement and maintenance of Seller’s pylon sign in the parking lot parcel on a permanent basis. Seller and Buyer shall negotiate- mutually agreeable easement agreements starting with Seller’s form agreement.

Buyer will obtain, at its sole cost and expense, such survey work and professional drawings as are necessary to create accurate, recordable legal descriptions and depictions of the easement areas.

CONSTRUCTION

Buyer and Seller shall cooperate to satisfy Seller’s need to have a clean, low maintenance area next to their building due to the replat of the pedestrian access parcel pursuant to a mutually agreeable temporary construction easement. This could include removing planters, landscaping, irrigation and installing hardscape/concrete. Buyer shall pay for all related costs to design and modify this area.

SIGNAGE

Seller’s existing signage to remain in the parking lot pursuant to a sign easement.

ASSIGNMENT

Buyer may not assign its rights under the option agreement without the prior written consent of Seller which consent shall not be unreasonably withheld, conditioned or delayed.

1031 EXCHANGE

Buyer or Seller may elect to exchange the Property for other real estate of a like kind in accordance with Section 1031 of the Internal Revenue

Code. In the event that either party elects to conduct such an exchange, the other party shall cooperate in good faith.

BROKERAGE

Cushman & Wakefield (Seller's Broker) exclusively represents Seller and there are no other parties involved with this transaction. At closing Seller will pay a commission to Seller's Broker pursuant to the terms in the Independent Contractor Agreement between Cushman & Wakefield and Seller. Seller's Broker and Buyer's Broker will then split the commission as set forth in a separate written agreement.

NOT AN AGREEMENT

This is a non-binding letter of intent. **The parties acknowledge that execution of this LOI does not constitute an agreement that will be legally binding on any party.** By executing this LOI, each party acknowledges that (i) the terms of this letter constitute only a summary of the negotiations to date and does not result in any contractual or other legal obligation, either express or implied, on either party; and (ii) this letter does not constitute a preliminary contractual undertaking upon which either party may justifiably rely as a basis for further actions or negotiations. This letter is executed by the parties with the understanding that no party will be bound by any of its terms until negotiations have been concluded and definitive written agreements have been mutually executed covering all of the foregoing matters and such additional considerations as either of us deem appropriate. We contemplate that we will continue negotiations relating to this LOI, but we each specifically reserve the right to terminate negotiations, at any time, with or without cause. Neither the expenditure of funds nor the taking of any actions by either of us with respect to this LOI or the transaction contemplated hereby will be regarded as personal performance creating a binding agreement, and both parties expressly waive any right to assert claims for reimbursement or damages against the other party arising out of such expenditures and/or actions.

If the above general terms and conditions reflect an agreement in principle, the Seller will finalize these negotiations in the Option Agreement.

City of Owatonna

By: _____

Its: _____

EXHIBIT A

Legal Description of Property



Human Resources Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Emily Thamert, Director
SUBJECT: Personnel Policy Revisions

Purpose:

Adopt the following revised sections to the Personnel Policy and Procedures Manual

7.2 Paid Time Off (PTO) Policy

7.3 Part-Time PTO

7.8 Medical Leave of Absence Without Pay

7.9 Personal Leave of Absence Without Pay

Ch. 12 Non-DOT Drug and Alcohol Testing and Drug and Alcohol-Free Workplace

Ch. 13 DOT Drug and Alcohol Testing Policy

Background:

7.2 Paid Time Off (PTO) Policy

- Replace the 920 maximum PTO accrual with a 720 maximum PTO accrual. The elimination period of the City paid long term disability benefit was reduced from 180 to 90 days effective February 1, 2022. Adjusting the PTO maximum accrual aligns with this change.
- Update language to reflect current practice of per pay period accruals.
- Front load the first eight pay period PTO accruals in the first year of eligible service. Annual accrual in year one remains 144.

7.3 Part-Time PTO

- Remove not applicable language. In accordance with 7.2 when a part-time employee moves to a full-time position, their PTO accrual is simply no longer prorated.

7.8 Medical Leave of Absence Without Pay

- Clarify language. All other leave balances must be exhausted before an unpaid medical leave may be granted.

7.9 Personal Leave of Absence Without Pay

- Clarify language. All vacation and PTO balances must be exhausted before a personal leave of absence may be granted.

Chapter 12 Non-DOT Drug and Alcohol Testing and Drug and Alcohol-Free Workplace

- Clarify that employees may not be under the influence of cannabis, legal or otherwise, while at work.

Chapter 13 DOT Drug and Alcohol Testing Policy

- Revise to align with current Federal Motor Carrier Safety Administration's (FMCSA) Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse requirements.

Budget Impact:

The budget impact of the 7.2 PTO Policy maximum accrual change is approximately \$66,000. There is no budget impact from any of the other proposed policy changes.

Staff Recommendation:

Staff recommends approval of the proposed policy revisions.

Attachments:

1. 2 21 23 Policy Updates

7.2 PAID TIME OFF (PTO) POLICY

(Revised ~~11/5/19~~)

Introduction

The City of Owatonna strives to provide equity, consistency, and flexibility in the delivery of benefit alternatives to city employees. Where appropriate, certain benefits have also been designed to incorporate employee tenure to recognize and regard long-term service to the city.

While traditional paid vacation, sick leave, medical appointments, and funeral leave have been in place for many years, those programs are very structured, with extensive rules being applied to the actual use of the benefit. With sick leave in particular, these rules often inject the employer into employee's lives and require supervisors to make highly subjective judgments. Utilization of sick leave also varies greatly within the employee population and therefore is difficult to achieve equity across the work force with this particular benefit.

The Paid Time Off (PTO) Plan replaces city policies on vacation, sick leave, medical appointments, and funeral leave and combines these benefits into a single plan. All eligible employees accrue PTO based on tenure. Plan provisions discourage unnecessary utilization by providing conversion and savings incentives.

With the adoption of this plan, the City of Owatonna firmly accepts and endorses the principles of equity, consistency, flexibility, and the recognition of tenure in the delivery of this benefit.

Policy

It is the policy of the City of Owatonna to provide employees necessary time away from work. This policy is implemented by means of the PTO Plan, which covers all paid leave previously available under the city's vacation, sick leave, medical appointment, and funeral leave policies.

PTO can be utilized for any purpose, subject only to necessary request/approval procedures consistent with the City of Owatonna Policies and Procedures Manual and labor contracts.

Accrual Rates

Effective January 1, 2006, PTO will accrue at the following rates for full-time employees:

Years of Service	Annual Accrual Rate (Hours)	Monthly Accrual Rate (Hours)
1	144	12.00
2	152	12.67
3	160	13.33
4	168	14.00
5	176	14.67
6-9	184	15.33
10	192	16.00
11	200	16.67
12	208	17.33
13	216	18.00

14	224	18.67
15	228	19.00
16	232	19.33
17	236	19.67
18	240	20.00
19	244	20.33
20	248	20.67
21	252	21.00
22	256	21.33
23	260	21.67
24+	264	22.00

Eligible part-time employees who work at least 20 hours per week on a regular basis will accrue paid time off (PTO) on a prorated basis of the full-time employee schedule. Part-time employees who work less than 20 hours per week on a regular basis, temporary and seasonal employees will not earn or accrue paid time off.

Use of PTO

- PTO is accrued on a per ~~month-pay period~~ basis and may be used subsequent to the ~~month-pay period~~ in which it was earned.
- The first eight pay period PTO accruals in the first year of eligible service will be front loaded and made available to the employee at the onset of their PTO eligible position. Per pay period accruals will begin on the ninth pay period thereafter.
- Non-scheduled use must be requested prior to the beginning of a shift or per departmental practices. Non-scheduled PTO requests may be denied depending on staffing needs.
- Good attendance is an essential job function for all city employees. If unplanned absences are excessive, a doctor's certification may be required. The physician's certification is to state the nature and duration of the illness or injury and verify that the employee is unable to perform the duties and responsibilities of their position. A statement attesting to the employee's ability to return to work and perform the essential functions of the job and a description of any work restrictions may also be required before the employee returns to work.
- Probationary employees may use PTO as it is earned.
- Maximum PTO accrual is 1,200 hours until December 7, 2019. Maximum PTO accrual is 920 until February 25, 2023. As of ~~December 8, 2019~~ February 26, 2023, maximum PTO accrual will be ~~920~~720 hours. Hours earned in excess of the stated maximum PTO accrual shall be utilized during the benefit year. Maximums will be enforced on the employees' anniversary date.
- Eligible part-time employees will accrue on a pro-rated bases, based on hours worked. Part-time employees can earn a max of PTO up to their FTE hire rate for the year.
- PTO may be used subsequent to the ~~month-pay period~~ in which it was earned in increments of not less than one hour.
- All employees with two to ten years of service shall be required to take a minimum of 80 hours (pro-rated on regular hours of work during the benefit year) of their earned PTO each accrual year based on anniversary date (providing the hours are available). After an employee reaches 10 years of service and beyond, they are required to take a minimum of 120 hours of work off during the benefit year (providing the hours are available). The difference between the minimum time off required per year and the

amount of time used that is less than the required minimum shall be lost. (example: required to use 80 hours, only used 68 hours – employee would lose 12 hours). The City Administrator may grant exceptions to this rule based upon extenuating circumstances in a written request. It is the employee's responsibility to monitor these hours.

- Employee's receiving Worker's Compensation benefits may use accrued PTO hours to return to 100% of their net salary.
- ~~Previously accrued sick leave hours shall be used prior to beginning of an unpaid leave of absence for medical reasons. A medical leave of absence may be granted only if an employee has exhausted all accumulated leave balances as outlined in Chapter 7.8.~~
- ~~An employee taking an unpaid leave of absence for other than medical reasons must use all accrued PTO hours before beginning the unpaid leave. A personal leave of absence may be granted only if an employee has exhausted all available vacation or PTO as outlined in Chapter 7.9.~~

Termination Benefits

Upon termination of employment with the City of Owatonna, PTO will be paid at the employee's hourly wage rate x 100% of balance up to the applicable max accrual as outlined above. The PTO payout will be deposited into the Health Care Savings Plan as outlined in Chapter 6.11.

In the event an employee separates from employment in their first year of PTO eligible position, the cash out of unused PTO will be prorated based on the pay period in which he or she separates from employment.

Severance benefits will be paid to employees with Sick Leave Banks in accordance with provisions in the appropriate bargaining agreements or the City of Owatonna Policies and Procedures Manual.

Termination pay cannot be used to extend the employee's date of termination beyond the last scheduled workday unless approved by the City Administrator.

Eligibility

All regular full-time City of Owatonna employees who are eligible for benefits and all eligible part-time employees are eligible to participate in the PTO program.

Participation

All City of Owatonna employees hired after 1/1/06 and not covered by a collective bargaining agreement shall be enrolled in the PTO program. Employees hired prior to 1/1/06 may elect to stay on the old plan or convert to the PTO plan. Conversion election shall take place once a year. Once converted to the PTO, an employee may not return to the old plan.

The PTO plan for employees hired prior to 1/1/06 shall go into effect on 3/1/06.

Employee groups covered by collective bargaining agreements must negotiate participation in the PTO program through the collective bargaining process.

Current Vacation/Sick Leave Balances

Existing vacation and sick leave balances shall be converted to the PTO program in the following manner:

- Unused vacation balances shall be converted to PTO accounts of participating employees
- Sick leave hours will be converted to the Sick Leave Bank

Sick Leave Bank

Total unused sick leave hours will be frozen and shall become the Sick Leave Bank. These hours may be used according to sick leave state law.

In the event of each illness, injury, or disability, time off may be taken from the Sick Leave Bank or the PTO account, at the employee's choice.

Employees receiving Worker's Compensation benefits may use the Sick Leave Bank to return to 100% of their current salary.

Upon termination, any remaining balance in the Sick leave Bank will be paid out at 50% of the remaining hours

DONATED LEAVE POLICY

The intent of this section is to allow for the transfer of accrued paid time off (PTO) from one employee to the paid time off or vacation account of another employee who has a need for additional paid leave because he/she has exhausted all paid leave and has a serious medical hardship. The donation of accumulated PTO can be done only on a one-for-one basis. The employee requesting donated leave shall submit a written application to the City Administrator describing the medical hardship. The hardship must impact the employee, employee's spouse, employee's children, or the employee's parents. The medical hardship must be supported by a physician's statement to be eligible for consideration. (eff 10/20/15)

The City Administrator reserves the right to determine eligibility for leave transfer on a case-by-case basis. Exercise of the leave donation policy shall not establish precedent or practice and shall not be subject to the grievance procedure.

TERMS AND CONDITIONS

1. Donations may be from accrued vacation or paid time off and will be credited to the recipient's leave account. Donated leave will be subject to policies that govern the leave, whichever policy (PTO or vacation) is appropriate. [Donated Leave Authorization Form available from the Human Resources Department.](#)
2. The recipient must first use all accrued leave including sick, vacation, PTO, and compensatory time before being eligible to receive donated leave.
3. Employees receiving workers' compensation, disability, or other similar benefits are not eligible to receive donated leave.
4. Any donation of leave must be at least four hours and not more than sixteen (16) hours per year from any one donor to any one employee.
5. The donated leave will be transferred at the donor's pay rate and used at the recipient's pay rate.
6. Donations may be made retroactively, but no more than sixty days retroactively.
7. Names of donors and recipients will not be revealed unless the donors and recipients choose to do so in writing.

8. Donated paid time off will count towards the required minimum time off per year.
9. Employee is only eligible to receive donated leave for normal work hours lost due to the hardship.
10. All full-time employees and permanent part-time employees working at least 20 hours or more per week will be allowed to receive up to 525 hours of donated leave annually.
11. Employees receiving donated leave must use the donated leave within 90 days or those hours will be forfeited.
12. Donated hours do not qualify for cash payout upon termination.

7.3 PART-TIME PTO

~~When a part-time employee is hired into a full-time position, they will automatically be moved into the PTO Policy. A year of service step to move from part time to full time will be as follows:~~

Years of Service	20 Hours	30 Hours
1+	1	2
4+	2	3
7+	3	5
10+	4	6
13+	5	8
16+	6	9
20+	7	11

Part-time employees are not required to utilize any PTO hours in their first four (4) years of service. After 4 years of service but less than 10 years of service, they are required to take a minimum of 40 hours of their earned PTO each accrual year (providing the hours are available). After 10 years of service, they are required to utilize a minimum of 80 hours during the year. The City Administrator may grant exceptions to this rule based upon extenuating circumstances in a written request.

All other non-conflicting sections in the PTO Policy shall apply to part-time positions.

PLEASE NOTE: All City of Owatonna employees hired after 1/1/06 and not covered by a collective bargaining agreement shall be enrolled in the Paid Time Off (PTO) program instead of the following plans for vacation, sick leave, and funeral leave. **The Paid Time Off (PTO) Plan replaces city policies on vacation, sick leave, medical appointments, and funeral leave and combines these benefits into a single plan.** Employees hired prior to 1/1/06 may elect to stay on the following plan or convert to the new PTO plan. Conversion election shall take place once a year. Once converted to the PTO, an employee may not return to the old plan.

7.8 MEDICAL LEAVE OF ABSENCE WITHOUT PAY

The City of Owatonna may grant a medical leave of absence without pay to non- contract employees. To be eligible, an employee must be a certified, regular employee.

Authorization

1. The employee shall submit a written request for a medical leave of absence to the department director at the earliest possible date.
2. The department director shall be responsible for reviewing requests for medical leaves of absence and shall forward a recommendation for final action to the City Administrator.
 - a. A medical leave of absence may be granted only if an employee has exhausted all accumulated ~~sick leave and vacation leave~~ leave balances.
 - b. The department director may require the employee to submit a physician's written statement citing that the employee is unable to work due to a personal physical or mental illness, injury, or treatment of a chemical dependency and the projected date of return to work.
 - c. At any time during the leave, the department director may request a physician's statement updating the employee's condition and projected date of return to work.
3. Authorized requests and all medical statements shall be filed in the employee's personnel file in the Finance Department.

Length of Leave

A medical leave of absence may be granted for a maximum of six (6) months.

Affect on Benefits During a Leave of Absence Without Pay

Sick Leave, ~~and~~ Vacation, ~~and~~ PTO shall not accrue. Holidays shall not be paid.

For employees on medical leave of absence without pay, which results from an injury incurred in the course of duty for the City of Owatonna, the city will continue to pay premiums for Hospital – Surgical – Major Medical insurances as though the employee were in pay status. For purposes of calculating termination benefits, longevity shall continue through the period of medical leave of absence without pay of employees injured in the course of duty.

Reinstatement and Termination During a Leave of Absence Without Pay

Prior to returning to work from a medical leave of absence, the employee shall provide a physician's statement that the employee is able to return to work. An employee returning to work within the authorized leave period may be reinstated to the original position or a position in the same classification.

An employee exceeding the authorized leave period without giving proper notice shall be dismissed.

An employee giving proper termination notice within the authorized leave period shall be

eligible for terminal benefits.

7.9 PERSONAL LEAVE OF ABSENCE WITHOUT PAY

The City of Owatonna may grant non-contract employees a personal leave of absence without pay for personal matters of importance or necessity. To be eligible, an employee must be a certified, regular employee and have completed the probationary period for new employees.

Authorization

1. The employee shall submit a written request for a personal leave of absence indicating the reason and the projected date of return to work to the department director at the earliest possible date.
2. The department director shall be responsible for forwarding requests for personal leaves of absence to the City Administrator with recommendation.
 - a. A personal leave of absence shall be granted only if an employee has exhausted all available vacation or PTO.
 - b. The department director shall consider the importance or necessity of the request.
 - c. The department director shall consider the workload and staffing of the department prior to approving the request.
 - d. The department director shall consider the employee's length of employment and attendance record.
3. Authorized requests shall be filed in the employee's personnel file in the Human Resources Department.
4. Authorization for personal leaves of absence is tentative. The department director may contact the employee to return to work prior to the end of the authorized leave period. A reasonable amount of time shall be allowed for the employee to return to work.
5. Certified employees may take unpaid leave of up to a total of sixteen (16) hours during any school year to attend school conferences or classroom activities related to the employee's child, under eighteen (18) or under twenty (20) and still attending secondary school, if the conference or classroom activities cannot be scheduled during nonworking hours. The employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the employer.

Length of Leave

A personal leave of absence may be granted for a maximum of one (1) calendar year.

Affect on Benefits During a Leave of Absence Without Pay

Sick Leave, ~~and~~ Vacation, and PTO shall not accrue. Holidays shall not be paid.

For employees on medical leave of absence without pay, which results from an injury incurred in the course of duty for the City of Owatonna, the city will continue to pay premiums for Hospital – Surgical – Major Medical insurances as though the employee were

in pay status. For purposes of calculating termination benefits, longevity shall continue through the period of medical leave of absence without pay of employees injured in the course of duty.

Reinstatement and Termination During a Leave of Absence Without Pay

Prior to returning to work from a medical leave of absence, the employee shall provide a physician's statement that the employee is able to return to work. An employee returning to work within the authorized leave period may be reinstated to the original position or a position in the same classification.

An employee exceeding the authorized leave period without giving proper notice shall be dismissed.

An employee giving proper termination notice within the authorized leave period shall be eligible for terminal benefits.

CHAPTER 12: NON-DOT DRUG AND ALCOHOL TESTING AND DRUG AND ALCOHOL-FREE WORKPLACE

12.1 PURPOSE AND OBJECTIVES

The City of Owatonna ("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, the public, as well as themselves. The City 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.

Consistent with the Minnesota Drug and Alcohol Testing in the Workplace Act, the City's Non-DOT Drug and Alcohol Testing 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 DOT Drug and Alcohol Testing Policy (the "DOT Policy") for the tests specified in such policy. All other tests and 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 Notice and Consent of Drug and Alcohol Testing the City will provide. A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

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 Minnesota Drug and Alcohol Testing in the Workplace Act will take precedent over this policy to the extent the policy has not incorporated those revisions.

If any specific provisions of this policy conflicts with any current labor contract or civil service rules, the labor contract or civil service rules will prevail, except for any specific language required by law.

The City retains the full and unrestricted right to establish, modify, or eliminate any component of employment related to or included within this policy.

12.2 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:

Pre-Employment Testing

For positions that the City determines all job applicants conditionally offered employment for that position will undergo drug and/or alcohol testing, every job applicant offered employment with the City for that position will receive the offer conditioned upon passing a drug and/or alcohol test, among

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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 positive drug test result from an initial screening test verified by a confirmatory 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.

Reasonable Suspicion Testing

Consistent with Minn. Stat. § 181.951, subd. 3, employees will be subject to alcohol and drug 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.

Treatment Program Testing

The City may request or require an employee to undergo drug and/or 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 and/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.

Routine Physical Examination Testing

The City may request or require an employee to undergo drug and/or alcohol testing as part of a routine physical examination. The City 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.

Random Testing

The City may require an employee to submit to random drug and/or alcohol testing if the employee is in a safety-sensitive position.

12.3 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 discharge. 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 discharge from employment, and in the case of an applicant, the job offer will be immediately withdrawn.

12.4 REFUSAL ON SINCERELY HELD RELIGIOUS BELIEF

An employee or job applicant who, based on a sincerely held religious belief, 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.

12.5 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.

12.6 REVIEW AND NOTIFICATION OF TEST RESULTS

Notification of Negative Test Results

In the case of job applicants, Human Resources will notify a job applicant of a negative drug and/or alcohol result within three working days of receipt of result by the City, and the hiring process will resume. 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, Human Resources will notify the employee of a negative drug and/or alcohol result within three working 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.

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 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. 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. 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.

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. 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

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 discharge.

12.7 DRUG AND ALCOHOL-FREE WORKPLACE POLICY

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, edibles or beverages containing cannabinoids, 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. Likewise, the fact that cannabinoids may be lawfully purchased and consumed in some circumstances does not permit anyone to use, possess, or be impaired by them here. The federal government still classifies cannabis as an illegal drug, even though some states, including Minnesota, 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 impaired by any alcohol or drugs 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.

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 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 discharge. 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, up to and 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.

~~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 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.~~

12.8 Consequences for Employees Engaging in Prohibited Conduct

1. 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.

2. Employees

a. 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.

b. 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. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

c. 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.

d. 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.

12.9 NON-DISCRIMINATION

The City's 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.

12.10 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. Employee assistance program services are available by contacting the Human Resources Department.

12.11 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 Administrator to obtain additional information.

By this policy, the City of Owatonna 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:

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:

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant:

A person applying for a job with the City.

City:

The City of Owatonna.

City Premises:

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:

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:

A place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their urine and/or blood to be analyzed for the presence of controlled substances and alcohol.

Confirmatory Test:

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. and also includes all cannabinoids, including those that are lawfully available for public consumption that do not otherwise qualify as being a "controlled substance" as defined in Minn. Stat. § 152.01, subd. 4.

An 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:

As set forth in Minn. Stat. § 152.01, subd. 18.

Employee:

A person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.

Initial Screening Test:

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:

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:

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:

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:

A basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-Sensitive Position:

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:

Either (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.

CHAPTER 13: DOT DRUG AND ALCOHOL TESTING POLICY

13.1 PURPOSE AND OBJECTIVES

The City of Owatonna ("City") has a vital interest in maintaining a 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, the public, 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 the United States Department of Transportation ("DOT"), the City has adopted this DOT Drug and Alcohol Testing Policy for employees who hold a commercial driver's license ("CDL") to perform their duties. The City also has a separate Non-DOT Drug and Alcohol Testing Policy for employees or testing 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 Notice and Consent of Drug and Alcohol Testing the City will provide.

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 of 1991 or DOT~~ Federal Omnibus Transportation Employee Testing Act and Federal Motor Carrier Safety Administration (FMCSA) regulations will take precedent over this policy to the extent the policy has not incorporated those revisions.

If any specific provisions of this policy conflicts with any current labor contract or civil service rules, the labor contract or civil service rules will prevail, except for any specific language required by law.

The City retains the full and unrestricted right to establish, modify, or eliminate any component of employment related to or included within this policy.

13.2 PERSONS SUBJECT TO TESTING & TYPES OF TESTS

All employees are subject to testing whose job duties include performing “safety-sensitive functions” on City vehicles that:

- 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
- Have a gross vehicle weight rating or gross vehicle weight of 26,0001 or more pounds whichever is greater; or
- Are designed to transport 16 or more passengers, including the driver; or
- 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 C.F.R 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.

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 an alcohol test prior to the first time a driver performs a safety-sensitive function for the City, but only after a conditional offer of employment has been made. No applicant, including current employees seeking a transfer, will perform safety-sensitive functions unless the driver has received an alcohol test result from the MRO indicating a test result of ~~.02 or less Blood Alcohol Content ("BAC")~~: .04 or less Blood Alcohol Content ("BAC").

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. Beginning in 2020, an applicant must provide consent to the city, and successfully pass a full query of the Federal Motor Carrier Safety Administration's Clearinghouse. In addition, at least once a year, the City will conduct a limited query of the Clearinghouse for each currently employed CDL driver. If the limited query reveals that the Clearinghouse has information about resolved or unresolved drug and alcohol program violations by a candidate or current employee, he or she will be asked to provide electronic consent to a full query of the Clearinghouse (unless he or she has previously provided electronic consent). In the event a full query of the Clearinghouse reveals unresolved violation information for a candidate or current employee, the driver will not be permitted to perform safety-sensitive functions, including the operation of a Commercial Motor Vehicle and, in the case of a candidate, may have their conditional offer of employment rescinded or, in the case of a current employee, may be subject to discipline.

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
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
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.

a. 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.

b. 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 (8) 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 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 2019, federal law requires the City to test at a rate of at least twenty-five percent (25%)~~
~~For 2020, federal law requires the City to test at a rate of at least fifty percent (50%) of~~ its average number of drivers for controlled substances 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 substances, 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, up to and including discharge, against drivers who violate applicable DOT regulations 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 a 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 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, up to and including discharge, against drivers who violate applicable DOT regulations 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 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.

13.3 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.

13.4 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 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.

13.5 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 at least 24 hours, escorted home, and placed on vacation/PTO 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 discharge. [In accordance with the Federal Motor Carrier Safety Administration's \(FMCSA\) Commercial Driver's License \(CDL\) Drug and Alcohol Clearinghouse reporting requirements, beginning January 6, 2020, the City will report a driver's refusal to submit to a DOT test for drug or alcohol use to the Clearinghouse within three business days.](#) 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.
- Altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample

- 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 discharge 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, up to and including discharge, 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.

In addition to the conduct prohibited by applicable DOT regulations, the City also maintains other applicable policies regarding drug and alcohol that are applicable to all employees. For specifics regarding those requirements, refer to the City's policy for non-DOT related drug and alcohol policy.

13.6 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 requests 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.

13.7 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.

13.8 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.

13.9 CONSEQUENCES FOR DRIVERS ENGAGING IN PROHIBITED CONDUCT

1. 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.

2. 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:

a) 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/PTO, for hours missed from work.

b) 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, including but not limited to the City's EAP, 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.

c) Discipline, up to and including discharge

The City reserves the right to impose whatever discipline, up to and including discharge, the City deems appropriate at its sole discretion, up to and including termination for a first occurrence, against drivers who violate applicable DOT regulations 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.

d) 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.

e) 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.

f) 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.

g) 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 DOT regulations, 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.

h) Reporting to the FMCSA's CDL Drug and Alcohol Clearinghouse

In accordance with the Federal Motor Carrier Safety Administration's (FMCSA) Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse reporting requirements beginning January 6, 2020, the City will report the following information to the Clearinghouse within three business days:

- A DOT alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- A negative DOT return-to-duty test result;
- The driver's refusal to submit to a DOT test for drug or alcohol use;
- Actual knowledge a driver has used alcohol or controlled substances, based on the employer's direct observation, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substance abuse except as provided in § 382.121) of:
 - On duty alcohol use pursuant to § 382.205;
 - Pre-duty alcohol use pursuant to § 382.207;
 - Alcohol use following an accident pursuant to § 382.209;
 - Controlled substance use pursuant to § 382.213;
- Employers will also report negative return-to-duty (RTD) test results and the successful completion of a driver's follow-up testing plan as ordered by a SAP.

13.10 LOSS OF CDL LICENSE FOR TRAFFIC VIOLATIONS IN COMMERCIAL AND PERSONAL VEHICLES

DOT has strict regulations 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. 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.

13.11 MAINTENANCE AND DISCLOSURE OF RECORDS

(Revised 10/6/20)

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 DOT regulations. Beginning in 2020, the city will be required to query and report to the agency's Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse prior to hiring new drivers, will conduct annual checks of existing CDL-drivers, and will report certain violations of the DOT drug and alcohol testing program for holders of CDLs. Certain information related to tests are required to be available to prospective employers and state licensing authorities. 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.

13.12 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 Emily Thamert in Human Resources at 507-774-7345 or emily.thamert@ci.owatonna.mn.us to obtain additional information.

DEFINITIONS

Accident:

An incident involving a commercial motor vehicle in which there is either 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 a vehicle being required to be towed from the scene. 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 federal regulations.

Alcohol Concentration (or Content):

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.

Alcohol Use:

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant:

A person applying to drive a commercial motor vehicle.

Breath Alcohol Technician or BAT:

An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

City:

City of Owatonna.

City Premises:

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:

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.

Commercial Motor Vehicle:

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, 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) 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.

Confirmation (or Confirmatory) Test:

For alcohol testing, a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, 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.

Controlled Substance:

Marijuana, amphetamines, opioids, (including heroin), phencyclidine (PCP), cocaine, and any of their metabolites are included within this definition.

Department of Transportation or DOT:

The United States Department of Transportation.

DHHS:

The Department of Health & Human Services or any designee of the Secretary, Department of Health & Human Services.

Disabling Damage:

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.

Driver:

~~Any person who operates a commercial motor vehicle. For purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.~~
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:

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.”

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:

A licensed physician responsible for receiving and reviewing 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.

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:

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:

~~A belief a driver has engaged in conduct prohibited by the DOT~~ 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:

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.

Screening Test (also known as Initial Test):

In alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his 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 from further consideration.

Substance Abuse Professional" or "SAP":

A licensed physician, 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.



Human Resources Department

DATE: February 21, 2023
TO: Mayor and City Council
FROM: Emily Thamert, Director
SUBJECT: Compensation Plan

Purpose:

Approval of Compensation Plan and repeal Policy 3.7

Background:

The City utilized Gallagher to conduct a comprehensive classification and compensation study in 2015-16. A result of that study included the City adopting a salary structure establishing pay ranges for City of Owatonna employees based on their Decision Band Method (DBM) rating. Approving a Compensation Plan is best practice for administering and maintaining fair, reasonable, and cost-effective compensation for employees. The Compensation Plan will also serve as a guide for Councils and Administration in the future. The Compensation Plan includes language regarding performance management, therefore policy 3.7 Performance Evaluations would be repealed upon approval of the Plan.

Budget Impact:

There is no budget impact on approving the Compensation Plan.

Staff Recommendation:

Staff recommends approval of the Compensation Plan and repeal of Policy 3.7.

Attachments:

1. City of Owatonna Compensation Plan

City of Owatonna Compensation Plan

To clearly, effectively, consistently, and efficiently manage compensation for City of Owatonna employees, the city hereby establishes this Compensation Plan.

Key Objectives

The key objectives of the City of Owatonna (City) Compensation Plan are as follows:

- To maintain compliance with the Minnesota Local Government, Pay Equity Act.
- To retain and attract personnel who consistently apply the knowledge, competencies and capabilities required to perform their positions as expected.
- To maintain a plan that is consistent with the City's compensation philosophy.
- To clearly, effectively, consistently, and efficiently manage compensation for employees.
- To maintain compliance with all applicable local, State and Federal laws and regulations that affect the plan.
- To maintain a plan that is flexible enough to accommodate fiscal, economic, marketplace, internal equity, and organizational changes that affect the plan.

Compensation Philosophy

The City is committed to providing a compensation program designed to:

- Align with the City's purpose statement and values.
- Retain and attract well-qualified employees.
- Provide salaries that are fair, reasonable, equitable, and affordable.
- Motivate employees to perform to the best of their competencies, abilities, and skill sets.
- Relate to other human resource programs including, but not limited to benefits, work life effectiveness, recognition, performance management, and talent development.
- Provide sufficient flexibility to accommodate changing fiscal, economic, marketplace, and internal equity conditions.
- Comply with applicable state and federal laws, rules, and regulations, especially Minnesota's pay equity law for local governments which requires that local governments assure that: (i) the compensation for positions which require comparable skill, effort, responsibility, working conditions, and other relevant work-related criteria is comparable; (ii) the compensation for positions which require differing skill, effort, responsibility, working conditions, and other relevant work-related criteria is proportional to the skill, effort, responsibility, working conditions, and other relevant work-related criteria required; and (iii) there are no sex-based wage disparities.
- Adhere to principles of equal employment opportunity in which compensation is not based on employees' non-job-related attributes, such as protected classes specified in law, except where there is a bona fide occupational qualification.

Administration

- The City Council, as the governing authority, is accountable for final approval of compensation for union and non-union City employees.
- The City Administrator and Director of Human Resources are accountable for administration of the Compensation Plan as accepted, approved, and authorized by the City Council.

Job Description Evaluation

The City of Owatonna will maintain job descriptions for each regular position. Each regular position is assigned a classification based on the Decision Band Method (DBM) of job evaluation.

A review of a position's classification may be requested or initiated for the following reasons:

1. A new position is created.
2. If an existing position is vacated and the City Administrator determines that a classification review is warranted.
3. With the City Administrator's approval, a position's duties and responsibilities have been changed.
4. An employee requests a review of their position's classification. An employee may only request a review if there is new information available that was not used during the initial job evaluation or a prior review process.
 - A. Employees desiring a review of their position's classification may do so by completing a Classification review form and submitting it to the Human Resources Department.
 - B. An employee may only request a review of their position's classification no earlier than 12 months after the final decision on a preceding review the employee requested for their respective position.
 - C. If an employee does not comply with any of the requirements above, the employee is precluded from pursuing a review under this procedure.
 - D. City Administrator's designees will review the request, discuss it, and communicate a final decision on the review to the requesting employee.

Performance Management

An objective performance review system will be maintained by the City Administrator or designee for the purpose of periodically evaluating the performance of city employees.

The City is committed to a performance management system for its employees that communicates performance expectations for job duties and responsibilities, workplace standards and goals and objectives; identifies an employee's strengths and areas for improvement in meeting these expectations; and fosters an employee's job development.

To meet this commitment, the City promotes the following:

1. Ongoing feedback to and candid discussions with employees and about performance throughout the year.
2. Developing and rewarding good performance.
3. Formal personnel actions as necessary to address performance problems through coaching, counseling, performance improvement plans and/or progressive discipline.
4. An annual performance evaluation that addresses prior and future performance of the employee.

The quality of an employee's performance will be considered in personnel decisions such as promotions, transfers, demotions, and terminations.

Certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable using the city's grievance process, other performance evaluation data, including subjective assessments, are not. For those parts of the performance evaluation system deemed not challengeable, an employee may submit a written response, which will be attached to the performance review.

Performance reviews are to be scheduled on a regular basis, preferably at least annually. During the training period, informal performance meetings should occur frequently between the supervisor and the employee.

Job-related performance competencies appraised for both exempt and non-exempt personnel may include communication factor, interpersonal factor, leadership, strategic management, judgment, job knowledge, and self-management. Goals and personal development may also be discussed.

The performance review form, with all required signatures, will be retained as part of the employee's personnel file.

Maintaining the Plan

Elements of this plan will be reviewed periodically to determine the degree to which it remains consistent with the City's compensation philosophy. Actions that may be taken to proactively maintain the plan include the following:

1. Review, verification, and any required updating of job descriptions for all positions.
2. Review, verification, and any required updating of position classification.
3. Review, verification, and consideration of market data collected from the comparable market entities selected for comparison.
4. Review and consideration of changes to the City's human resource programs including, but not limited to compensation, benefits, work life effectiveness, recognition, performance management, and talent development.
5. Review and consideration of required and/or appropriate changes to this plan.