



**CITY OF CLOQUET  
AMENDED  
City Council Agenda  
Tuesday, May 3, 2016  
7:00 p.m.  
City Hall Council Chambers**

**CITY COUNCIL WORK SESSION**

- 5:30 p.m. Veterans and Fauley Park Design Presentation – SEH  
6:30 p.m. Skate Park Design and Location

The City Council may opt to re-open the Work Session meeting at the conclusion of the Regular meeting for the purpose of reviewing the Ehlers and Assoc. study regarding possible merger and consolidation of the City of Cloquet and City of Scanlon.

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
  - a. Approval of May 3, 2016 Council Agenda
4. **Approval of Council Minutes**
  - a. Work Session minutes from the April 19, 2016 meeting
  - b. Regular Council minutes from the April 19, 2016 meeting
5. **Consent Agenda**

*Items in the Consent Agenda are considered routine and will be approved with one motion without discussion/debate. The Mayor will ask if any Council members wish to remove an item. If no items are to be removed, the Mayor will then ask for a motion to approve the Consent Agenda.*

  - a. Resolution No. 16-36, Authorizing the Payment of Bills and Payroll
  - b. Approval of New Liquor License for 2016-2017 – ARK Enterprises, LLC (Southgate Family Pizzeria)
  - c. Optional Liquor 2AM License Renewal - Moose Lodge 1274
6. **Public Hearings**

None.



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7:00 p.m.  
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**7. Presentations**

- a. Mayor's Proclamation, May 14, 2016 as "Stamp Out Hunger" Food Drive Day

**8. Council Business**

- a. Appointment of Police Officers
- b. Authorization of Police Officer Hiring Process
- c. Disposal of 2011 Police Vehicle
- d. Drug and Alcohol Testing Policy
- e. Amended Joint Powers Agreement Regarding the Cloquet Cable Commission
- f. Ordinance No. 455A, An Ordinance Deleting Section 2.3.01 of the City Code as it Relates to the Cable TV Commission
- g. Awarding Bid for 2016 Skyline Boulevard Landscaping Project
- h. Resolution No. 16-38, A Resolution Awarding Bid for 2016 3<sup>rd</sup> Street Reconstruction Project

**9. Public Comments**

*Please give your name, address, and your concern or comments. Visitors may share their concerns with the City Council on any issue, which is not already on the agenda. Each person will have 3 minutes to speak. The Mayor reserves the right to limit an individual's presentation if it becomes redundant, repetitive, irrelevant, or overly argumentative. All comments will be taken under advisement by the Council. No action will be taken at this time.*

**10. Council Comments, Announcements, and Updates**

**11. Closed Meeting**

- a. The City Council may adjourn into a closed meeting as permitted under M.S. 13D.05, Subd. 3 for the purpose of discussing the potential purchase of real estate located at 218 St. Louis Avenue and SW corner of 8<sup>th</sup> Street and Avenue B.

**12. Adjournment**

## CLOQUET CITY COUNCIL WORK SESSION

Tuesday, April 19, 2016

 **DRAFT**

**Present:** Bjerkness, Kolodge, Langely, Maki, Rock, Wilkinson, Mayor Hallback

**Absent:** None.

**Staff:** Fritsinger, Barclay, Klassen, Lukkarila

**Other:** Larry Anderson, Cassy Brissett, Cathy Rikkola, Alice Holm, Rex Laaksonen, Jamie Lund, Pine Journal

### Joint Meeting with Library Board

City Administrator Fritsinger provided a brief summary of the efforts of the City Council and Library Board to meet annually to discuss issues of mutual interest. Introductions were made. Mr. Fritsinger noted the primary focus of this discussion is the library building project and how to move forward.

- Mr. Anderson gave an overview of the events that took place at the library over the course of the year. The Children's and Adult programs are very popular, as well as a joint program with the Alternative Education Program that was very successful.
- Anne Lundquist, the new Children's Librarian started in April.
- The library received a grant from the Blandin Foundation to be used for a new addition.
- Review of the Annual report which provided information on the increased quantity of use and events. Use of the library grows each year by not only Cloquet residents, but many throughout the Arrowhead Library System.
- The newsletter mailing list has over 1,000 names on it. Donations generate enough to cover the cost of printing and mailing.
- Discussion of the number of complaints of noise level with more activities being offered. There are times when there are as many as 30 kids in the library which makes it difficult to monitor. The new building plan has more space for the children's programs, better space for the teen center, and a quiet space for adults.
- There is some program partnering with FDL, mostly through technology, networking and sharing ideas. Ms. Lukkarila is currently working with them on the Blandin Grant as well as some cultural programs.
- Ms. Lukkarila reviewed the strategic plan and how it ties into the library expansion. The idea is to have an open plan making it easier to change as needs change throughout the years. Want to remain family friendly which can be a challenge with the number of kids coming in.
- Discussion of electronic and paper books available. Ms. Lukkarila isn't anticipating much growth for paper book space.
- The next grant opportunity is \$1 million for building projects through legislative bonding, which is based on needs and how you can work those needs into the goals of the state.
- Mr. Fritsinger commented how the facilities study ranked the library as the lowest need. Of all projects, this is the only one with the ability to draw in funding sources other than property taxes.
- An architect sketch is required when applying for grants or capital campaign. The next step depends on what the Council's thoughts are.
- Discussion on current building funds. Most is done by the Foundation, fund raising and grants.
- Estimate for the library expansion is \$2.6 million.
- The Council will review this project in relationship to the other community facility projects that need to be prioritized.

There being no further business, the meeting adjourned at 6:50 p.m.

Respectfully Submitted,

Brian Fritsinger  
City Administrator



Regular Meeting

Roll Call

Councilors Present: Bjerkness, Kolodge, Langley, Maki, Rock, Wilkinson, Mayor Hallback

Councilors Absent: None.

Pledge of Allegiance

#### AGENDA

**MOTION:** Councilor Rock moved and Councilor Maki seconded the motion to approve the April 19, 2016 agenda. The motion carried unanimously (7-0).

#### MINUTES

**MOTION:** Councilor Kolodge moved and Councilor Langley seconded the motion to approve the minutes of the Special Work Session of March 29, 2016, and the minutes of the Work Session and Regular Meeting of April 5, 2016. The motion carried unanimously (7-0).

#### CONSENT AGENDA

**MOTION:** Councilor Bjerkness moved and Councilor Maki seconded the motion to adopt the consent agenda of April 19, 2016 approving the necessary motions and resolutions. The motion carried unanimously (7-0).

- a. Resolution No. 16-33, Authorizing the Payment of Bills

#### PUBLIC HEARINGS

There were none.

#### PRESENTATIONS

Mayor Hallback read a proclamation proclaiming April 23, 2016 to be observed as Young Life Day.

#### 2015 END OF YEAR OPERATING TRANSFERS

**MOTION:** Councilor Bjerkness moved and Councilor Wilkinson seconded the motion to authorize the transfers for 2015 as detailed in the April 11, 2016 staff report. The motion carried unanimously (7-0).

#### HOLMES DRIVE / TRUNK HIGHWAY 33 FRONTAGE ROAD MILL & OVERLAY

**MOTION:** Councilor Kolodge moved and Councilor Langley seconded the motion to adopt **RESOLUTION NO. 16-34, A RESOLUTION ORDERING THE IMPROVEMENT AND PREPARATION OF PLANS AND SPECIFICATIONS FOR THE MILL AND OVERLAY OF THE TRUNK HIGHWAY 33 FRONTAGE ROAD/HOLMES DRIVE/8<sup>TH</sup> STREET FROM DODDRIDGE AVENUE TO TRUNK HIGHWAY 33.** The motion carried unanimously (7-0).

**WHEREAS,** The City has made plans to mill and overlay the TH 33 Frontage Rd from Doddridge Avenue to TH 33; and

**WHEREAS,** The City Engineer has identified a need to maintain the aging and deteriorated roadway; and

**WHEREAS,** The sidewalk extensions proposed as part of the project were identified as a priority improvement in the City's adopted Community Trail Plan; and

**WHEREAS,** written notice was mailed to all adjoining property and business owners inviting them to participate in an informal public information meeting held on April 14, 2016.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA:**

1. Such improvement is necessary, cost effective, and feasible as detailed by the City Engineer.

2. The City Engineer is hereby designated as the engineer for this improvement and shall prepare plans and specifications for the making of such improvement.
3. Such improvement is hereby ordered and the City Engineer is hereby authorized to solicit bids for construction.

#### **CONDITIONAL USE PERMIT, NATHAN RADOUSH**

**MOTION:** Councilor Rock moved and Councilor Bjerkness seconded the motion to adopt **RESOLUTION NO. 16-35, A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT FOR NATHAN RADOUSH FOR A TWO FAMILY DWELLING IN THE R1-SINGLE FAMILY RESIDENCE DISTRICT**. The motion carried unanimously (7-0).

**WHEREAS**, Nathan Radoush is proposing a Conditional Use Permit for a two family dwelling in the R1 – Single Family Residence District; and

**WHEREAS**, As required by ordinance, notification was advertised in the Pine Journal and property owners within 350 feet were sent notice. A public hearing was held to consider the application at the regular meeting of the Cloquet Planning Commission on April 12, 2016 at which time Zoning Case / Development Review No. 16-04 was heard and discussed; and

**WHEREAS**, the property of the proposed Conditional Use Permit is located south of Grant Avenue and west of 22<sup>nd</sup> Street and is legally described as follows:

Lot 1, Block 4, City of Cloquet South Side Addition and that part of adjacent vacated portion of Grant Avenue, Carlton County, Minnesota. and

**WHEREAS**, the Planning Commission reviewed the staff report and recommends approval of the Conditional Use Permit.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA**, that it approves Zoning Case 16-04 to allow a two family dwelling for Nathan Radoush in the R1 – Single Family Residence District subject to the following condition:

1. A Building Permit is issued prior to beginning any work.

#### **TERMINATION OF HIGHWAY 33 OPTION AGREEMENTS**

**MOTION:** Councilor Kolodge moved and Councilor Wilkinson seconded the motion to provide formal written Notice of Termination of Option Agreements with the Nels Nelson and Cloquet DNR properties due to formal termination of the Preliminary Development Agreement by the Developer (Ryan Companies) with the City. Staff also recommends written notice to the County Auditor related to the Letter of Understanding. The motion carried unanimously (7-0).

#### **CITY COUNCIL GOALS UPDATE**

The City Administrator briefly updated the Council on the status of the Goals and Initiatives. No changes were identified.

#### **DIRECTOR OF PUBLIC WORKS / CITY ENGINEER HIRING PROCESS**

**MOTION:** Councilor Bjerkness moved and Councilor Langley seconded the motion to authorize the hiring process for the Director of Public Works/City Engineer position. The motion carried unanimously (7-0).

#### **PUBLIC COMMENTS**

There were none.

#### **COUNCIL COMMENTS, ANNOUNCEMENTS, AND UPDATES**

Councilor Kolodge thanked the Young Life Group for volunteering to clean up the City.

On a motion duly carried by a unanimous yea vote of all members present on roll call, the Council adjourned.




## ADMINISTRATIVE OFFICES

1307 Cloquet Avenue • Cloquet, MN 55720  
Phone: 218-879-3347 • Fax: 218-879-6555  
email: admin@ci.cloquet.mn.us  
www.ci.cloquet.mn.us

### REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Brian Fritsinger, City Administrator   
Date: April 26, 2016

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**ITEM DESCRIPTION:** New On Sale Wine and On Sale 3.2% Malt Liquor License  
ARK Enterprises (Southgate Family Pizzeria)

#### Proposed Action

Staff recommends the City Council move to approve the On Sale Wine and On Sale 3.2% Malt Liquor Licenses for ARK Enterprises, LLC, dba Southgate Family Pizzeria, 918 Hwy Highway South, effective June 1, 2016 subject to final approval by the State of Minnesota.

#### Background/Overview

The City has received an application from ARK Enterprises, LLC, seeking to obtain a new On Sale Wine and On Sale 3.2% Malt Liquor License at 918 Highway 33 South. ARK Enterprises, LLC, is in the process of purchasing Southgate Pizza and is planning to continue serving wine and 3.2% malt liquor.

The business currently operates as a restaurant with a medium establishment food license.

- On-Sale Malt Liquor License – There are no special conditions to be considered in either City Code or State Statute regarding this license. City Code does not establish a set number of 3.2% licenses that the City can issue in a year, so one would be available.
- Sunday Liquor License – Under M.S. 340A. 404, Subd. 5, a restaurant is authorized to sell wine all days of the week unless the issuing authority restricts such sales. The City has no such restrictions.

If approved, the licenses being sought will expire on June 30, 2017.

#### Policy Objectives

Approval of all On-Sale Wine and On Sale 3.2% Malt Liquor Licenses are required under Chapter 6 of the City Code and M.S. 340A.404 of State law. All other aspects of the applications are in accordance with City Code.

#### Financial Impacts

The City's fee schedule requires each license holder to pay set fees for each license. The total fees received by the City for alcohol licenses are required to be consistent with the level of service to administer and enforce local liquor laws. The applicant has paid all fees which are required by the City.

#### Advisory Committee/Commission Action

None.

#### Supporting Documentation Attached

- On Sale Wine and On Sale 3.2% Malt Liquor Applications



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www.ci.cloquet.mn.us

email: admin@ci.cloquet.mn.us

CITY OF CLOQUET, MN  
APPLICATION FOR ON SALE 3.2% MALT LIQUOR LICENSE

Application:  New  Renewal

License Category:  Restaurant  Hotel  Bowling Center  Golf Course  Club  
 Establishment used exclusively for the sale of 3.2% malt liquor with the sale of tobacco & soft drinks

APPLICANT INFORMATION:

Name: Annette Helen Kiehn  
First Full Middle Name Last

Applicant Current Address: \_\_\_\_\_

City, State, Zip: Cloquet, MN 55720

Home Phone Work Phone Cell Phone

E-Mail Address \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: Cloquet Memorial Hospital

Licensee Name: ARIK Enterprises LLC  
*Business, Partnership, Corporation, LLC, Individual)*

Social Security #: \_\_\_\_\_

Trade Name or DBA: Southgate Family Pizzeria

Licensed Location Address: 918 Hwy 33, Cloquet, MN 55720

Business Phone: 218-879-1516

BUSINESS INFORMATION:

Business Name: Southgate Pizza

Address of Business: 918 Hwy 33, Cloquet, MN 55720

Mailing Address (if different from above): Cloquet, MN 55720

Phone No.: 218-879-1516 Alternate Number: \_\_\_\_\_

Manager of Business: Annette Kiehn

**BUSINESS OWNERSHIP INFORMATION:**

Type of Ownership:  Sole Proprietorship  Partnership  Limited Liability Corporation (LLC)  Corporation (Inc)

If the above named licensee is a corporation, partnership, or LLC, complete the following for each partner/officer:

Partner/Officer Name: Annette Helen Kiehn  
First Middle Last

Home Address: \_\_\_\_\_

City, State, Zip: Cloquet, MN 55720

\_\_\_\_\_  
Date of Birth Social Security No.

Partner/Officer Name: \_\_\_\_\_  
First Middle Last

Home Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

\_\_\_\_\_  
Date of Birth Social Security No.

Are you the owner or one of the owners of the business stated in this application?  Yes  No

If yes, how long have you been in the business at this location? \_\_\_\_\_

If you are not the business owner, please list business owner information:

Name: Kurt Richard Wuollet  
(First) (Full Middle) (Last)

Address: 379 Hwy 33 N  
Cloquet, MN 55720

\_\_\_\_\_  
Home Phone Work Phone Cell Phone  
218-879-1516 218-391-5233



The property at which I am requesting a license for, I  Own  Rent  Lease  Other: \_\_\_\_\_

*(If you rent or lease the premises, you must attach a copy of your fully executed rental or lease agreement)*

If you are not the property owner, please list property owner information:

Name: Bick Stowell  
(First) (Full Middle) (Last)

Address: 904 Hwy 33 S  
Cloquet, MN 55720

Home Phone: \_\_\_\_\_ Work Phone: 218-879-8045 Cell Phone: 218-522-1262

**Property/Business Information:**

**Intoxicating liquor licenses will only be issued to establishments which are properly zoned and/or meet those zoning requirements for such location as may be required by the City.**

**For Zoning Verification, contact the Cloquet Zoning Department at (218) 879-2507 prior to submitting your application to obtain a "Certificate of Zoning Compliance."**

You must indicate the exact legal description of the premises to be licensed, with a plot plan of the area showing dimensions, locations of buildings, street access, parking facilities and the locations of and distances to the nearest church building and schools.

The license application must include a complete description of the compact and contiguous area in which the licensee will conduct business, including a description of physically connected attachments to the main structure such as patios, decks, or pavilions.

If the description covers a building with more than one story or room which are used for business purposes other than those permitted to be in combination with the license, then the description must specify the floor and the space to which the license will apply.

Property Zoning District: \_\_\_\_\_

Property Parcel ID Number: \_\_\_\_\_

Property Complete Legal Description: \_\_\_\_\_  
\_\_\_\_\_

Is there more than one story to building?

Yes

No

If yes, please describe: \_\_\_\_\_

Does business have inside access to another business establishment?

Yes

No

If yes, please describe: \_\_\_\_\_

Will licensed area include any outdoor attachment such as a patio or deck?  
If yes, is area fenced in?  Yes  No

Yes

No

(Please describe in detail and attach drawing)

**Cloquet Municipal Code. Section 6.3.09, Subd. 2 Distance from Schools and Churches.** No license shall be granted for any place within 1,200 feet of any public school or within 600 feet of any church unless the entity pre-existed the location of the School or Church in question or unless such a use is permitted under City Zoning and is approved by the City Council. In applying this restriction, the distance shall be measured between the main front entrance of each structure, following the route of ordinary pedestrian travel.

Church:  Yes

No

If yes, distance from location: \_\_\_\_\_

School:  Yes

No

If yes, distance from location: \_\_\_\_\_

How many off-street parking spaces are to be provided exclusively for your customers? \_\_\_\_\_

Days of Operation:

Sunday - Saturday

Hours of Operation:

S-M-T-W-TH 11:00-9:00 Friday & Saturday 11:00-11:00

Give a complete description of business activities to be conducted on the premises:

We will serve Italian & Mexican food, along with beer & wine. I would like to go into some catering also.

Real estate taxes on property to be licensed are:

Paid current

Delinquent

Are there any financial claims to the City of Cloquet owed by the applicant, business owner, or property owner?

None exist.

There are financial claims owed to the City of Cloquet.

If there are current financial claims owed to the City of Cloquet, please state the responsible party, state amount(s), and type of claim:

Responsible Party

Amount

Type of claim (i.e., utilities, etc.)

Please answer all questions truthfully and to the best of your knowledge. Providing false information may be cause for denial of your license. Please add additional information if necessary.

1. Have you been convicted of any misdemeanor or felony violation of local ordinances related to the sale of alcoholic beverages?  Yes  No

If yes, please provide statement of all convictions (date of offense, location, charge and date of conviction.)

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2. Have you previously operated in this City or another City or State under a license or permit which had been denied, suspended or revoked?  Yes  No

If yes, please provide information and state reasons.

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3. Do you currently hold a license of the same in this City, any other City, State or Country?  Yes  No

If yes, please provide business information for that license.

Business Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone No. \_\_\_\_\_

*The City of Cloquet reserves the right to request additional information to assist in the evaluation of this application.*

I do hereby swear that the answers in this application are true and correct to the best of my knowledge. I do authorize the City of Cloquet, its agents and employees, to obtain information and to conduct an investigation, if necessary, into the truth of the statements set forth in this application and my qualifications for this license.

Signature of Applicant: Annette Kiehn Date: 4/17/16

Print Name Annette Helen Kiehn  
 First Middle Last

SEND FUTURE APPLICATION RENEWALS TO:

- Applicant's Residence Address  
 Business Address

FOR CITY USE ONLY: (When applicable)				
	Signature:	Approved:	Denied:	Date:
Planning:				
Police Chief:				
Fire Dept.:				
Finance Director:				
City Administrator:				



Minnesota Department of Public Safety  
**Alcohol and Gambling Enforcement Division (AGED)**  
 444 Cedar Street, Suite 222, St. Paul, MN 55101-5133  
 Telephone 651-201-7507 Fax 651-297-5259 TTY 651-282-6555

**Certification of an On Sale Liquor License, 3.2% Liquor license, or Sunday Liquor License**

**Cities and Counties:** You are required by law to complete and sign this form to certify the issuance of the following liquor license types:  
 1) City issued on sale intoxicating and Sunday liquor licenses  
 2) City and County issued 3.2% on and off sale malt liquor licenses

Name of City or County Issuing Liquor License Cloquet License Period From: 06/01/16 To: 06/30/17

Circle One: New License License Transfer \_\_\_\_\_ Suspension Revocation Cancel \_\_\_\_\_  
(former licensee name) (Give dates)

License type: (circle all that apply) On Sale Intoxicating Sunday Liquor 3.2% On sale 3.2% Off Sale

Fee(s): On Sale License fee: \$ \_\_\_\_\_ Sunday License fee: \$ \_\_\_\_\_ 3.2% On Sale fee: \$ \_\_\_\_\_ 3.2% Off Sale fee: \$ \_\_\_\_\_

Licensee Name: ARK Enterprises DOB \_\_\_\_\_ Social Security # \_\_\_\_\_  
(corporation, partnership, LLC, or Individual)

Business Trade Name Southgate Family Pizzeria Business Address 918 Hwy 33 City Cloquet

Zip Code 55720 County Carlton Business Phone 218-879-1516 Home Phone \_\_\_\_\_

Home Address \_\_\_\_\_ City Cloquet Licensee's MN Tax ID # 4509457

Licensee's Federal Tax ID # 36-4834600  
(To apply call IRS 800-829-4933)

(To Apply call 651-296-6181)

If above named licensee is a corporation, partnership, or LLC, complete the following for each partner/officer:

Partner/Officer Name (First Middle Last)	DOB	Social Security #	Home Address
(Partner/Officer Name (First Middle Last))	DOB	Social Security #	Home Address
Partner/Officer Name (First Middle Last)	DOB	Social Security #	Home Address

Intoxicating liquor licensees must attach a certificate of Liquor Liability Insurance to this form. The insurance certificate must contain all of the following:

- 1) Show the exact licensee name (corporation, partnership, LLC, etc) and business address as shown on the license.
- 2) Cover completely the license period set by the local city or county licensing authority as shown on the license.

Circle One: (Yes No) During the past year has a summons been issued to the licensee under the Civil Liquor Liability Law?

Workers Compensation Insurance is also required by all licensees: Please complete the following:

Workers Compensation Insurance Company Name: Great Lakes Insurance Policy # WCP2182766-01

I Certify that this license(s) has been approved in an official meeting by the governing body of the city or county.

City Clerk or County Auditor Signature \_\_\_\_\_ Date \_\_\_\_\_  
(title)

**On Sale Intoxicating liquor licensees must also purchase a \$20 Retailer Buyers Card. To obtain the application for the Buyers Card, please call 651-201-7504, or visit our website at [www.dps.state.mn.us](http://www.dps.state.mn.us).**



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email: admin@ci.cloquet.mn.us

CITY OF CLOQUET, MN  
APPLICATION FOR ON SALE WINE LICENSE

Application:  New  Renewal

Business Type:  Restaurant  Theater

APPLICANT INFORMATION:

Name: Annette Helen Kiehn  
First Full Middle Name Last

Applicant Current Address: 1014 Pinewood Dr.

City, State, Zip: Cloquet, MN 55720

Home Phone Work Phone Cell Phone

E-Mail Address

Date of Birth: \_\_\_\_\_ Place of Birth: Cloquet Memorial Hospital

Licensee Name: ARK Enterprises LLC  
*Business, Partnership, Corporation, LLC, Individual*

Social Security #: \_\_\_\_\_

Trade Name or DBA: Southgate Family Pizzeria

Licensed Location Address: 918 Hwy 33

Business Phone: 218-879-1516

BUSINESS INFORMATION:

Business Name: Southgate Family Pizzeria

Address of Business: 918 Hwy 33, Cloquet, MN 55720

Mailing Address (if different from above): 1014 Pinewood Dr.  
Cloquet, MN 55720

Phone No.: 218-879-1516 Alternate Number: \_\_\_\_\_

Manager of Business: Annette H. Kiehn



**Property/Business Information:**

Intoxicating liquor licenses will only be issued to establishments which are properly zoned and/or meet those zoning requirements for such location as may be required by the City.

**For Zoning Verification, contact the Cloquet Zoning Department at (218) 879-2507 prior to submitting your application to obtain a "Certificate of Zoning Compliance."**

You must indicate the exact legal description of the premises to be licensed, with a plot plan of the area showing dimensions, locations of buildings, street access, parking facilities and the locations of and distances to the nearest church building and schools.

The license application must include a complete description of the compact and contiguous area in which the licensee will conduct business, including a description of physically connected attachments to the main structure such as patios, decks, or pavilions.

If the description covers a building with more than one story or room which are used for business purposes other than those permitted to be in combination with the license, then the description must specify the floor and the space to which the license will apply.

Property Zoning District: \_\_\_\_\_

Property Parcel ID Number: \_\_\_\_\_

06-230-2780

Property Complete Legal Description: \_\_\_\_\_

Is there more than one story to building?  Yes  No

If yes, please describe: \_\_\_\_\_

Does business have inside access to another business establishment?  Yes  No

If yes, please describe: \_\_\_\_\_

Will licensed area include any outdoor attachment such as a patio or deck?  Yes  No  
If yes, is area fenced in?  Yes  No

*(Please describe in detail and attach drawing)*

How many off-street parking spaces are to be provided exclusively for your customers? 15

Days of Operation: \_\_\_\_\_

Sunday - Saturday

Hours of Operation: \_\_\_\_\_

6:30 - 10:00

might change

The property at which I am requesting a license for, I  Own  Rent  Lease  Other: \_\_\_\_\_

*(If you rent or lease the premises, you must attach a copy of your fully executed rental or lease agreement)*

If you are not the property owner, please list property owner information:

Name: Rick Stowell  
(First) (Full Middle) (Last)

Address: 904 Hwy 33 S  
Cloquet MN 55720

Home Phone: \_\_\_\_\_ Work Phone: 218-879-8045 Cell Phone: 218-522-1762

Real estate taxes on property to be licensed are:  Paid current  Delinquent

Are there any financial claims to the City of Cloquet owed by the applicant, business owner, or property owner?

None exist.  There are financial claims owed to the City of Cloquet.

If there are current financial claims owed to the City of Cloquet, please state the responsible party, state amount(s), and type of claim:

Responsible Party	Amount	Type of claim (i.e., utilities, etc.)
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**To be completed if license is for a restaurant:**

Are you requesting to sell wine on Sunday?  Yes  No

Are meals regularly prepared on the premises and served at tables to the general public?  Yes  No

Is there seating capacity for at least 25 guests at one time?  Yes  No

*(Must meet provisions of the Uniform Fire Code for a formal occupancy rating or other similar documentation and square footage to arrive at the proper seating capacity. Please contact our Building Official at 879-2507 with any questions.)*

Square footage of total dining area: 2,400 sq. ft.

Submit a floor plan of the dining room(s), showing dimensions and indicating the number of persons intended to be served in each of such rooms.

Please submit a copy of your restaurant license from the Minnesota Department of Health.

License Type:  Small Establishment  Medium Establishment  Large Establishment

Are you requesting authorization to sell strong beer?  Yes  No  
*(must have a 3.2% on sale malt liquor license in addition to a wine license)*

Are your gross receipts at least 60 percent attributable to the sale of food?

Yes (Attach Liquor/Food Sales Verification form)

No (If no, please explain)

will supply at 6-months





Minnesota Department of Public Safety  
 Alcohol and Gambling Enforcement Division  
 444 Cedar Street, Suite 222, St. Paul, MN 55101  
 651-201-7500 Fax 651-297-5259 TTY 651-282-6555

Print Form

**APPLICATION FOR COUNTY/CITY ON-SALE WINE LICENSE**  
 (Not to exceed 14% of alcohol by volume)

**EVERY QUESTION MUST BE ANSWERED.** If a corporation, an officer shall execute this application. If a partnership, LLC, a partner shall execute this application. To apply for MN sales Tax # call 651-296-6181

Workers compensation insurance company name Great Lakes Insurance Agency, Inc. Policy Number WCP2182766-01

Licensee's MN sales and Use Tax ID # 4509457 Licensee's Federal Tax ID # 36-4834600

Applicants Name (Business, Partnerships, Corporation) ARK Enterprises, LLC		Trade Name or DBA Southgate Family Pizzeria	
Business Address 918 Hwy 33		Business Phone 218-879-1516	Applicant's Home Phone
City Cloquet	County Carlton	State MN	Zip Code 55720
Is this application <input checked="" type="checkbox"/> New or a <input type="checkbox"/> Transfer	If a transfer, give name of former owner	License Period From 06-01-16 To 06-30-17	
If a corporation, give name, title, address and date of birth of each officer. If a partnership, LLC, give name, address and date of birth of each partner.			
Partner/Officer Name and title Annette H. Kiehn	Address	DOB	SSN
Partner/Officer Name and title	Address	DOB	SSN
Partner/Officer Name and title	Address	DOB	SSN
Partner/Officer Name and title	Address	DOB	SSN
<b>CORPORATIONS</b>			
Date of incorporation	State of incorporation	Certificate Number	Is corporation authorized to do business in Minnesota? <input type="checkbox"/> Yes <input type="checkbox"/> No
If a subsidiary of another corporation, give name and address of parent corporation			
<b>BUILDING AND RESTAURANT</b>			
Name of building owner Rick Stowell		Owner's address 904 Highway 33 South, Cloquet, MN 55720	
Are property taxes delinquent <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has the building owner any connection, direct or indirect with the applicant? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Restaurant seating capacity 110	Hours food will be available 11 am to 11 pm
Number of restaurant employees 18	Number of months per year restaurant is open 12	Will food service be the principal business? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Describe the premises to be licensed Pizza Parlor			
If the restaurant is in conjunction with another business (resort etc.), describe business NA			

**NO LICENSE WILL BE APPROVED OR RELEASED UNTIL THE \$20 RETAILER ID CARD FEE IS RECEIVED BY AGED**

- Yes  No Has the applicant or associates been granted an on-sale malt liquor (3.2) and/or a "set-up" license in conjunction with this wine license?
- Yes  No Is the applicant or any of the associates in this application a member of the county board or the city council, which will issue this license? If yes, in what capacity? \_\_\_\_\_  
(if the applicant is the spouse of a member of the governing body, or another family relationship exists, the member shall not vote on this application.)
- Yes  No During the past license year, has a summons been issued under the liquor civil liability (Dram Shop)(M.S. 340A.802). If Yes, attach copy of the summons.
- Yes  No Has applicant, partners, officers or employees ever had any liquor law violations in Minnesota or elsewhere. If so, give names, dates, violations and final outcome details.

Yes  No Does any person other than the applicants, have any right, title or interest in the furniture, fixtures or equipment in the licensed premises? If yes, give names and details.

Yes  No Have the applicants any interests, directly or indirectly, in any other liquor establishments in Minnesota? If yes, give name and address of establishment.

I CERTIFY THAT I HAVE READ THE ABOVE QUESTIONS AND THAT THE ANSWERS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signature of Applicant

Date

The licensee must have one of the following:

Liquor liability insurance (Dram Shop) \$50,000 per person; \$100,000 more than one person; \$10,000 property destruction; \$50,000 and \$100,000 for loss of means of support. Attach "CERTIFICATE OF INSURANCE" to this form.

A surety bond from a surety company with minimum coverage as specified above in.

A certificate from the state treasurer that the licensee has deposited with the state, trust funds having a market value of \$100,000 or \$100,000 in cash or securities.

**IF LICENSE IS ISSUED BY THE COUNTY BOARD, REPORT OF COUNTY ATTORNEY**

Yes  No I certify that to the best of my knowledge the applicants named above are eligible to be licensed. If no, state reason.

Signature County Attorney

County

Date

**REPORT BY POLICE OR SHERIFF'S DEPARTMENT**

This is to certify that the applicant and the associates, named herein have not been convicted within the past five years for any violation of laws of the State of Minnesota, Municipal or County ordinances relating to intoxicating liquor, except as follows:

Signature

Department and Title

Date

**IMPORTANT NOTICE**

**ALL RETAIL LIQUOR LICENSEES MUST REGISTER WITH THE ALCOHOL, TOBACCO TAX AND TRADE BUREAU.  
FOR INFORMATION CALL 513-684-2979 OR 1-800-937-8864**

A \$30.00 service charge will be added to all dishonored checks. You may also be subjected to a civil penalty of \$100.00 or 100 % of the value of the check, whichever is greater, plus interest and attorney fees.

# MAYOR'S PROCLAMATION

## City of Cloquet

**Whereas**, hunger affects millions of people nationwide, including millions of children, seniors and military veterans; and

**Whereas**, these people, including residents of Cloquet, are in need of supplemental food assistance each month; and

**Whereas**, food pantry shelves stocked from winter holiday giving are often bare in late spring; and

**Whereas**, when school meal programs end in the summertime, millions of children must find alternate food sources; and

**Whereas**, in 2015, the National Association of Letter Carriers "Stamp Out Hunger" Food Drive collected 71 million pounds of donated food which was distributed locally in 10,000 cities and towns across America including Cloquet; and

**Whereas**, on Saturday, May 14, 2016, Letter Carriers will collect food donations to be distributed by pantries and food banks.

**NOW THEREFORE**, I, David Hallback, Mayor of the City of Cloquet, do hereby proclaim

### **SATURDAY, MAY 14, 2016, AS LETTER CARRIERS "STAMP OUT HUNGER" FOOD DRIVE DAY**

in Cloquet, Minnesota, and encourage our citizens to support the efforts of our local Letter Carriers Association in their fight against hunger.



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David Hallback, Mayor  
City of Cloquet



# CLOQUET POLICE DEPARTMENT


508 CLOQUET AVENUE, CLOQUET, MINNESOTA 55720-1799

PHONE 218-879-1247

FAX 218-879-1190

## REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Steve Stracek, Chief of Police  
Reviewed by: Brian Fritsinger, City Administrator   
Date: April 21, 2016

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**ITEM DESCRIPTION:** Appointment of Police Officers

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### **Proposed Action**

Staff recommends the City Council move to approve the probationary appointments of Andrew Wappes effective May 8, 2016 and Benjamin Waller effective May 9, 2016 to the position of Police Officer. Appointment dates are staggered in order to establish seniority rankings within the department.

### **Background/Overview**

The Cloquet Police Department currently has 20 sworn officers to provide police services to the cities of Cloquet and Scanlon. The current number of sworn officers in the department includes 16 assigned to patrol, 1 assigned to investigative functions (presently), and 3 assigned to administration. In 2015, the department was staffed with 21 officers but was reduced to 20 when at year's end, one officer ended employment with the city.

In 2015, the City Council approved the addition of 2 Police Officers to increase the department's number of sworn staff to 23. This staffing increase was recommended in the 2014 Law Enforcement Analysis of the Cloquet Police Department. The analysis conducted by the Upper Midwest Community Policing Institute and Minnesota Chiefs of Police Association identified best practices and optimum staffing levels to adequately provide and manage police services. The staffing increase supports in part, improvements to our command structure by better enabling Police Sergeants who direct daily patrol activity and are tasked with first-line supervisory functions.

In the fall of 2015, with the help of the Citizen Advisory Board (CAB), the City began a process to establish a current eligibility list for the position of Police Officer. The City received 28 applications for employment.

To hire a new officer is a rigorous and time-consuming process. The process includes: a written application, a written examination from the International Public Management Association for Human Resources (IPMA-HR), and a pre-employment questionnaire. After the initial test and screening of candidates, the City brought together an interview panel consisting of representatives of the Police Department, The Fond du Lac Reservation, Cloquet School District, FDLTCC, area clergy, and members of the Citizens Advisory Board to further narrow down a field of 12 candidates.

To the Mayor and City Council  
Appointment of Police Officer  
April 21, 2016  
Page 2

Per the Advisory Board rules for new hires, the candidates were then ranked to establish a current eligible register. Background checks of the top 6 candidates selected by the panel were completed. Final selections from the list of the top candidates were made after an interview with the City Administrator, Assistant City Administrator and Police Chief. The two identified candidates have completed a required medical and psychological assessment and have been recommended for employment. All new officers are required to complete three months of field training and have a year-long probationary period.

### **Policy Objectives**

The Police Officer position is critical to the overall success of the Department in the delivery of professional and efficient policing services to the community. Police Officers are responsible for the preservation of law and order, the protection of life and property, the prevention and detection of crime, the provision of emergency services and the enforcement of laws and ordinances.

### **Essential Functions of the Job**

Responds to calls for police service, including domestic disputes, auto accidents, crimes in progress, and medical emergencies; investigates complaints involving violation of City codes and State and Federal laws; patrols streets and highways and residential and business areas, to prevent and protect against criminal activities; responds to complaints and resolves problems; participates in crime prevention, community policing and neighborhood watch activities; takes crime reports from citizens and files reports and logs; investigates traffic accidents, including preparing reports and gathering evidence. Officers may perform specialized assignments such as canine, range officer, field training officer, intoxilyzer operator, crime prevention training, evidence officer, etc. Officers also ensure proper maintenance and safe operation of all City vehicles and equipment, monitor incident reports, other logs, emails, bulletins and teletypes, and performs other duties as apparent or assigned, in accordance with the City's policies and applicable laws.

The City follows the hiring process identified within the Citizen Advisory Board rules and Police Department Procedural Manual Sections 3.50, 3.51 and 3.52.

### **Financial/Budget/Grant Considerations**

No additional financial implications to the City as the positions are currently included in the 2016 budget.

### **Advisory Committee/Commission Action**

The Police Citizen Advisory Board assisted the administration with the creation of the current eligibility list.

### **Supporting Documentation Attached**

- None



# CLOQUET POLICE DEPARTMENT

STEVEN K. STRACEK  
Chief of Police

508 CLOQUET AVENUE  
CLOQUET, MINNESOTA 55720-1799  
records@ci.cloquet.mn.us

Phone 218-879-1247  
Fax 218-879-1190

## REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Steve Stracek, Chief of Police  
Reviewed by: Brian Fritsinger, City Administrator  
Date: April 25, 2016

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**ITEM DESCRIPTION:** Authorization of Police Officer Hiring Process

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### Proposed Action

Staff recommends that council move to authorize the hiring process for Police Officer positions.

### Background/Overview

The 2016 budget included funding for the creation of two new Police Officer positions. After the 2016 hiring process began, a third position, resulting from the separation from employment of another police officer was identified. Council authorized hiring for the third open position earlier in 2016.

At the conclusion of our current hiring process, two candidates were selected and recommended for hire from a list of 6 final candidates. After review of the remaining eligibility list, staff recommends that no additional candidates be selected and that a new eligibility list be established.

Hiring a police officer is a vigorous and time consuming process. The process includes a written test, a panel and final interview, background verification, and medical and psychological assessments. The process can take up to a few months to complete in order to properly recruit and hire top tier candidates.

### Policy Objectives

Hiring for this position is consistent with previous actions of the City Council. It will allow the Police Department to continue to provide a full level of service to our community.

### Financial/Budget/Grant Considerations

Current costs will be minimal and include the purchase of a written test, staff time, and advertising. The open position is currently funded in the department budget so no additional costs will be incurred by the City.

### Advisory Committee/Commission Action

The Citizens Advisory Board will be engaged in this hiring process.

### Supporting Documentation Attached

- None





# CLOQUET POLICE DEPARTMENT


STEVEN K. STRACEK  
Chief of Police

508 CLOQUET AVENUE  
CLOQUET, MINNESOTA 55720-1799  
records@ci.cloquet.mn.us

Phone 218-879-1247  
Fax 218-879-1190

## REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Steve Stracek, Chief of Police  
Reviewed by: Brian Fritsinger, City Administrator   
Date: April 21, 2016

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**ITEM DESCRIPTION:** Disposal of 2011 Police Vehicle

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### **Proposed Action**

Staff recommends the City Council move to authorize the sale through auction of a 2011 Ford Crown Victoria squad car, VIN#2FABP7BVXBX161651.

### **Background/Overview**

New vehicle purchases allow the Police Department to maintain a fleet of sound, reliable vehicles resulting in lower maintenance costs and a higher degree of operational safety for officers. Police vehicles are subject to continuous use and exposure to extraordinary driving conditions. Historically it has been determined that when police vehicles exceed 90,000 odometer miles, maintenance costs increase and mechanical factors affecting safe operation deteriorate. The 2015 and 2016 budgets allowed for the rotation of new vehicles into service. This action allows for the subsequent rotation of older vehicles out of service. To facilitate this rotation and disposal, the Department proposes to offer them for sale through "Lots4bid" auction service.

In order to proceed with their disposal, authorization by the City Council is necessary.

### **Policy Objectives**

To dispose of unneeded department equipment in accordance with City policy and State Statues. All essential police equipment and markings have been removed from the vehicle.

### **Financial/Budget/Grant Considerations**

It has been determined that it is no longer financially feasible to maintain this vehicle in inventory. This equipment does have some value and the sale proceeds would be returned to the appropriate city account.

### **Advisory Committee/Commission Action**

N/A

### **Supporting Documentation Attached**

- None




## ADMINISTRATIVE OFFICES

1307 Cloquet Avenue • Cloquet, MN 55720  
Phone: 218-879-3347 • Fax: 218-879-6555  
email: admin@ci.cloquet.mn.us  
www.ci.cloquet.mn.us

### REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: James Barclay, Assistant City Administrator-Human Resources Director  
Reviewed by: Brian Fritsinger, City Administrator   
Date: April 26, 2016

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**ITEM DESCRIPTION:** Drug and Alcohol Testing Policy for Commercial Drivers (DOT) and Drug and Alcohol Testing Policy for Non-Commercial Drivers (Non-DOT) Amendment

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#### **Proposed Action**

Staff recommends the City Council move to approve the attached amended Drug and Alcohol Testing Policy for Commercial Drivers (DOT Policy) and Drug and Alcohol Testing and Drug Free Workplace Act Policy for Non-Commercial Drivers (Non-DOT Policy) dated 4/18/2016.

#### **Background/Overview**

The City of Cloquet ("City") has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City of Cloquet 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.

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

The City of Cloquet adopted its current Drug Testing policy in 2002 and there was one amendment in 2003 updating existing laws and regulations at that time. These proposed amendments incorporate changes in laws and procedures put in place by the Federal government since that time.

#### **Policy Objectives**

The amended policy updates the alcohol and drug testing policy in recognition that abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The City of Cloquet's Drug and Alcohol Testing Non-DOT policy is being amended for the purpose of compliance with current testing rules and to provide a safe workplace for all.

#### **Financial/Budget/Grant Considerations**

There is no direct cost to the City related to the adoption of the amended policy.

#### **Advisory Committee/Commission Action**

The City's Safety Committee had previously discussed and reviewed the City's policy and recommended approval with minor changes. Further changes have been incorporated as noted above.

#### **Supporting Documentation Attached**

- Amended DOT and Non-DOT Testing Policies



**CITY OF CLOQUET  
DRUG AND ALCOHOL TESTING POLICY FOR  
COMMERCIAL DRIVERS  
(DOT POLICY)**

**PURPOSE AND OBJECTIVES**

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

In response to regulations issued by United States Department of Transportation (“DOT”), the City has adopted this Policy on Alcohol and Controlled Substances for employees who hold a commercial driver’s license (CDL) to perform their duties. The City also has a separate Policy on Controlled Substance and Alcohol Testing for employees not covered by DOT regulations.

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

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

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

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

## **PERSONS SUBJECT TO TESTING & TYPES OF TESTS**

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

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

The following functions are considered safety-sensitive:

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

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

Post-Accident Testing. As soon as practicable following an accident involving a commercial motor vehicle, the City will test each surviving driver for controlled substances and alcohol when the following occurs:

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

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

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

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

*Post – Accident Controlled Substance Testing*

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

*Post- Accident Alcohol Testing*

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

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

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

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

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

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

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

Reasonable Suspicion Testing. When a supervisor has reasonable suspicion to believe a driver has engaged in conduct prohibited by federal law or this policy, the City will require the driver to submit to an alcohol and/or controlled substance test.

The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver." In the case of controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

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

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

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

Return-to-Duty Testing. The City reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers for a first positive test result.

Should the City consider reinstatement of a DOT covered driver, the driver must undergo a Substance Abuse Professional ("SAP") evaluation and participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-

sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.

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

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

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

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

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

## **REQUIRED PRIOR CONTROLLED SUBSTANCE AND ALCOHOL CHECKS FOR APPLICANTS**

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



alcohol testing regulations. The City will review such records, if feasible, prior to the first time a driver performs safety-sensitive functions.

## **PROHIBITED CONDUCT**

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

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

On-Duty Use of Alcohol. No driver may use alcohol while performing safety-sensitive functions.

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

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

Refusal to Submit to a Required Alcohol or Controlled Substance Test. No applicant or driver may refuse to submit to pre-employment, post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance testing.

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

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

- Fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.

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

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

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

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

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

In addition to the conduct prohibited by applicable DOT and FMCSA 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.

## COLLECTION AND TESTING PROCEDURES

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

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

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

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

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

portion of any positive sample for testing and store that portion in a scientifically-acceptable manner for a minimum 365-day period.

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

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

## **REVIEW OF TEST RESULTS**

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

- The individual may be required to speak and/or meet with the MRO, who will review the individual's medical history, including any medical records provided.
- The individual will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information which may explain the positive test result. If the employee or job applicant, believes a mistake was made at the collection site, at the

labor, on a chain-of-custody form, or that the drug test results are caused by lawful substance use, the employee should tell the MRO.

- If there is some new information which may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to further clarify the results; and
- A final determination will be made by the MRO that the test is either positive or negative, and the individual will be so advised.

If the MRO upholds the positive, adulterated or substituted drug determination, that test result will be provided to the City. There is no opportunity to explain a positive alcohol test provided in the DOT regulations.

The driver can request the MRO to have the split specimen (the second "B" container) tested at the driver's expense. This includes all costs that may be associated with the re-test. There is no split specimen testing for an invalid result. The driver has 72 hours after they have been notified of the positive result to make this request. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory to send the split specimen to another certified laboratory for analysis.

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

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

## **NOTIFICATION OF TEST RESULTS**

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

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

substance metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test.

#### Dilute Specimens

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

## **CONSEQUENCES FOR DRIVERS ENGAGING IN PROHIBITED CONDUCT**

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

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

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

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

If a driver tests positive under this policy, or is found to have an alcohol concentration of .02 or greater but less than .04, the driver will be removed from safety sensitive duties and escorted home; the driver should not drive home, but be escorted to his or her home. The driver will then be placed on vacation, Compensatory time off or if no time available will be placed on unpaid time off for hours missed from work.

- Notification of Resources Available  
The City will advise each driver who has engaged in conduct prohibited by federal law or who has a positive alcohol or controlled substance test of the

resources available to the driver 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.

- Discipline

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

- Evaluation, and Return to Duty Testing

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

- Follow-Up Testing

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

- Refusal to test

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

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

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

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

## **MAINTENANCE AND DISCLOSURE OF RECORDS**

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

## **POLICY CONTACT FOR ADDITIONAL INFORMATION**

If you have any questions about this policy or the City's controlled substance and alcohol testing procedures, you may contact your immediate supervisor, or the City Administrator/Human Resources Director to obtain additional information.



## DEFINITIONS

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

**“Alcohol Concentration (or Content),”** means the alcohol on a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. 49 C.F.R. § 382.107.

**“Alcohol Use,”** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol. 49 C.F.R. § 382.107.

**“Applicant,”** means a person applying to drive a commercial motor vehicle. 49 C.F.R. § 382.107.

**“Breath Alcohol Technician” or “BAT,”** means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT). 49 C.F.R. § 40.3.

**“City,”** means City of Cloquet.

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

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

**“Commercial Motor Vehicle,”** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight rating or gross combination weight of 26,001 or more pounds, 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. (49 C.F.R. part 172, subpart F) § 382.107. [*Optional Wording:* Fire trucks and other emergency fire equipment are not considered to be commercial vehicles under this policy.]

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

**“Controlled Substance,”** means those substances identified in 49 C.F.R. § 40.21(a). Marijuana, amphetamines, opiates, (including heroin), phencyclidine (PCP), cocaine, and any of their metabolites are included within this definition. 49 C.F.R. § 382.107; 49 C.F.R. § 40.21(a).

**“Department of Transportation” or “DOT,”** means the United States Department of Transportation.

**“DHHS,”** means the Department of Health & Human Services or any designee of the Secretary, Department of Health & Human Services. 49 C.F.R. § 40.3.

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

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

**“Drug,”** has the same meaning as “controlled substance.”

**“Employee seeking a transfer,”** refers to an employee who is not subject to DOT regulations seeking a transfer to a position that will subject them to DOT regulations in the sought after position.

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

**“Federal Motor Carrier Safety Administration” or “FMCSA,”** means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

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

**“Performing (a Safety-Sensitive Function),”** means any period in which a driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. 49 C.F.R. § 382.107.

**“Positive Test Result,”** means a finding of the presence of alcohol or controlled substance, or their metabolites, in the sample tested in levels at or above the threshold detection levels established by applicable law.

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

**“Safety-Sensitive Function,”** means all time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

- All time at a city plant, terminal, facility, or other property, or on any public property,

- waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment as required by 49 C.F.R. § 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth ( a berth conforming to the requirements of 49 C.F.R. § 393.76);
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. 49 C.F.R. § 382.107.

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

**“Substance Abuse Professional” or “SAP,”** means a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, licensed or certified social worker, licensed or certified employee assistance professional, or licensed or certified addiction counselor (certified by the National Association of Alcoholism and Controlled Substance Abuse Counselors Certification Commission) with knowledge of an clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. 49 C.F.R. § 382.107.



**CITY OF CLOQUET  
CITY EMPLOYEE AND APPLICANT  
NOTIFICATION AND DRUG SCREENING CONSENT FORM**

I acknowledge that I have received and understand the City's Drug and Alcohol Testing Policy for Commercial Drivers (DOT Policy).

I agree to comply with the City's policy on controlled substance and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination. As an applicant, I understand my conditional job offer will be withdrawn if I refuse to test or test positive for a controlled substance.

I hereby consent to undergo controlled substance and/or alcohol testing pursuant to said policy, and I authorize collection of a urine and/or breath sample from me for these purposes.

I understand that the procedure employed in this process will insure the integrity of the sample and is designed to comply with medical and legal requirements.

I consent to the release of the controlled substance and/or alcohol test results in accordance with the City's testing policy to the selected Medical Review Officer (MRO), to the City's third-party administrator, to and within the City on a need-to-know basis, and to additional parties in accordance with written authorization or as otherwise required by applicable or state law.

I further understand that the results of this testing may affect my employment status, as described in the policy as well as federal law updates, as applicable.

In the event of a post-accident test, the drug and/or alcohol test result(s) may also be provided to the workers' compensation insurance carrier.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Drug Screening Refusal of Consent**

I hereby refuse to submit to the drug and alcohol testing process.

I have seen a copy of the City's Drug and Alcohol Testing Policy for Commercial Drivers (DOT Policy) and understand my refusal to submit to testing will subject me to disciplinary proceedings including, but not limited to, employment discharge.

\_\_\_\_\_  
Employee Signature

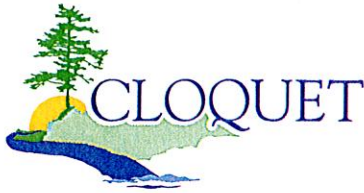
\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

If employee refuses to sign, indicate "Refused to sign".

## DATA PRIVACY NOTICE

The information collected pursuant to this policy is used to determine your eligibility for employment and the performance of certain safety sensitive functions. You are not required to provide information and submit to the tests, but your failure to do so will result in the City withdrawing a conditional job offer or you may be disciplined (up to and including discharge) from employment, whichever may apply. The results of the tests performed will be private data and will not be released to other employers, governmental agencies, or persons without the written consent of the employee tested, except as otherwise provided by regulation and law pursuant to a court order. Only those individuals with a necessity to perform their functions under this policy will have access to the test results.



**CITY OF CLOQUET  
DRUG AND ALCOHOL TESTING AND  
DRUG FREE WOKPLACE ACT POLICY FOR  
NON-COMMERCIAL DRIVERS  
(NON-DOT POLICY)**

**PURPOSE AND OBJECTIVES**

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

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

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

**PERSONS SUBJECT TO TESTING & CIRCUMSTANCES UNDER WHICH TESTING  
MAY BE REQUIRED**

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

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

Temporary and seasonal employees are also subject to this policy.

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

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

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

Employees will be driven to the employer-approved medical facility by their supervisor or a designee. The medical facility will take the urine or blood sample, and will forward the sample to an approved laboratory for testing.

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



**Treatment Program Testing.** In accordance with Minn. Stat. § 181.951, subd. 6., the City may request or require an employee to undergo drug and alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation, or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

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

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

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

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

#### ***Refusal on Religious Grounds***

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

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

## **PROHIBITION AGAINST CONTROLLED SUBSTANCE AND ALCOHOL**

**Use and Possession of Alcohol or Drug(s).** Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; is on City premises; while operating any City vehicle, machinery, or equipment; or when performing any city business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of

over-the-counter controlled substance used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

Besides having a zero-tolerance policy for the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils or pills) on the worksite by a person working as an employee at the City or while “on call” and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug here. The federal government still classifies cannabis as an illegal drug, even though some states have decriminalized its possession and use. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates our equipment or vehicles or who is on one of our worksites. Applicants and employees are still subject to being tested under our drug and alcohol testing policy. Employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

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

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

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

agency of such conviction within 10 days of receiving notice from the employee.<sup>1</sup>

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

## **REVIEW AND NOTIFICATION OF TEST RESULTS**

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

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

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

- **Right to Provide Information After Receiving Test Results.** Within three working days after notice of a positive controlled substance or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the City will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.
  
- **Right to Confirmatory Retest.** A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with Minn. Stat. § 181.953, subd. 3, the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels as used in the original confirmatory test.

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

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

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

## CONSEQUENCES FOR EMPLOYEES ENGAGING IN PROHIBITED CONDUCT

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

### **Employees.**

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

(2) If 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 the employee will be disciplined up to and including discharge from employment.

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

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

## **NON-DISCRIMINATION**

The City of Cloquet 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 of the safety of individuals.

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

## **CITY'S EMPLOYEE ASSISTANCE PROGRAM**

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

contacting NuVantage at 1-800-577-4727.

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

## **DEFINITIONS**

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

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

**"Applicant"** means a person applying for a job with the City.

**"City"** means the City of Cloquet.

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

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

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

**"Confirmatory test"** means a controlled substance or alcohol test on a sample to substantiate the results of a prior controlled substance or alcohol test on the same sample, and that uses a

method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.  
“**Drug**” has the same meaning as “controlled substance” defined in Minn. Stat. § 152.01, subd. 4.

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

“**Drug paraphernalia**” has the meaning set forth in Minn. Stat. § 152.01, subd. 18.

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

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

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

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

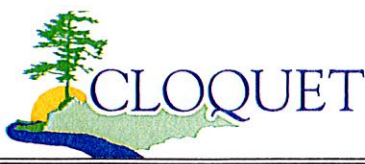
“**Random selection basis**” means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected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

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

“**Safety-sensitive position**” means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

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





**CITY OF CLOQUET  
CITY EMPLOYEE AND APPLICANT  
NOTIFICATION AND DRUG SCREENING CONSENT FORM**

I acknowledge that I have received and understand the City's Drug and Alcohol testing and Drug Free Workplace Act Policy.

I agree to comply with the City's policy on controlled substance and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination. As an applicant, I understand my conditional job offer will be withdrawn if I refuse to test or test positive for a controlled substance.

I hereby consent to undergo controlled substance and/or alcohol testing pursuant to said policy, and I authorize collection of a urine and/or breath sample from me for these purposes.

I understand that the procedure employed in this process will insure the integrity of the sample and is designed to comply with medical and legal requirements.

I consent to the release of the controlled substance and/or alcohol test results in accordance with the City's testing policy to the selected Medical Review Officer (MRO), to the City's third-party administrator, to and within the City on a need-to-know basis, and to additional parties in accordance with written authorization or as otherwise required by applicable or state law.

I further understand that the results of this testing may affect my employment status, as described in the policy as well as federal law updates, as applicable.

In the event of a post-accident test, the drug and/or alcohol test result(s) may also be provided to the workers' compensation insurance carrier.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Drug Screening Refusal of Consent**

I hereby refuse to submit to the drug and alcohol testing process.

I have seen a copy of the City's Drug and Alcohol Testing and Drug Free Workplace Act Policy and understand my refusal to submit to testing will subject me to disciplinary proceedings including, but not limited to, employment discharge.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

If employee refuses to sign, indicate "Refused to sign".

## DATA PRIVACY NOTICE

The information collected pursuant to this policy is used to determine your eligibility for employment and the performance of certain safety sensitive functions. You are not required to provide information and submit to the tests, but your failure to do so will result in the City withdrawing a conditional job offer or you may be disciplined (up to and including discharge) from employment, whichever may apply. The results of the tests performed will be private data and will not be released to other employers, governmental agencies, or persons without the written consent of the employee tested, except as otherwise provided by regulation and law pursuant to a court order. Only those individuals with a necessity to perform their functions under this policy will have access to the test results.




## ADMINISTRATIVE OFFICES

1307 Cloquet Avenue • Cloquet MN 55720  
Phone: 218-879-3347 • Fax: 218-879-6555  
email: admin@ci.cloquet.mn.us  
www.ci.cloquet.mn.us

### REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Brian Fritsinger, City Administrator   
Date: April 20, 2016

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**ITEM DESCRIPTION:** Amended Joint Powers Agreement Regarding the Cloquet Cable Commission

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#### **Proposed Action**

Staff recommends that the City Council move to approve the amended Joint Powers Agreement regarding the ongoing operation of the Cloquet Cable Commission between the cities of Scanlon, Carlton and Thomson Township.

#### **Background/Overview**

The Cloquet Cable Commission was established and organized in 1979 with the express purpose of negotiating ongoing franchise agreements with the Cable TV operator and to oversee the operation of the local access channel, CAT-7. Specifically, in 1979, the Northland Cable Vision was granted a franchise by the state which allowed it to install and operate a cable system. That original franchise area included the cities of Scanlon, Carlton and Cloquet, as well as Thomson Township.

As the Council is aware, the City spent a good part of 2015 negotiating and renewing the Franchise Agreement with our current service provider, Mediacom. During this renewal process, staff attempted to locate certain legal documents regarding the franchise from those early days and was unsuccessful.

As a result, if the system is to continue to operate under its current configuration as detailed in the Franchise Agreement, it is appropriate that a new Joint Powers Agreement be entered into authorizing the cooperative nature of the Cable Franchise.

#### **Policy Objectives**

Currently, certain powers and authorities are granted to the Commission under Section 2.3.01 of City Code. In considering this action, the Council will need to consider the elimination of this portion of City Code.

Minnesota Statute 471.59 allows two or more governmental units, by agreement entered through actions of their governing bodies, to jointly or cooperatively exercise any power common to the contracting parties.

To Mayor and Council  
Amended JPA – Cable Commission  
April 20, 2016  
Page 2

The proposed Agreement is being proposed to continue to authorize the Cable Commission to act as the governing body for the operation of CAT-7 and utilize franchise fees authorized by the Franchise Renewal Agreement with Mediacom for that purpose. Key policy objectives of the Agreement include:

- Identifying membership (Cloquet, Scanlon, Carlton and Thomsen Township)
- Identifying members of the Board (2 representatives from all; Cloquet 3 representatives)
- Powers and duties of the Commission
- Financial matters

**Financial/Budget/Grant Considerations**

The Agreement does not propose to change any of the current financial arrangements related to the operations of CAT-7.

**Advisory Committee/Commission Action**

The Cable Commission reviewed the draft JPA at its last meeting and recommended that member communities proceed with its review and execution

**Supporting Documents Attached**

- Joint Powers Agreement

**AMENDED  
JOINT POWERS AGREEMENT REGARDING THE ONGOING OPERATION OF THE  
CLOQUET CABLE COMMISSION**

**I. PARTIES**

The parties to this Agreement are all governmental units of the State of Minnesota. The existing Cloquet Cable Commission (hereinafter "Cable Commission") presently operates a public access channel CAT 7 for the benefit of all of the area governmental entities that are a party to this Agreement. This local access channel is operated solely from the proceeds of franchise fees paid by Mediacom Minnesota LLC (hereinafter referred to as "Mediacom") pursuant to obligations undertaken in a franchise agreement signed with the City of Cloquet. The governmental units served by the franchise agreement are the cities of Scanlon, Cloquet, Carlton and Thomson Township. This Agreement is entered into under authority extended to municipalities pursuant Minnesota Statutes Section 471.59, as amended.

**II. GENERAL PURPOSE**

The general purpose of this Agreement is to continue to authorize the Cable Commission to act as the governing body for the operation of CAT 7 and utilize franchise fees authorized by the franchise renewal agreement with Mediacom for that purpose. The Cable Commission will continue to monitor all of the operations and activities of cable communication services provided to the subscribing citizens of the parties and will continue to provide coordination of the administration and enforcement of the franchise on behalf of all of the parties. In addition, the Cable Commission will continue to promote, coordinate, administer and develop community cable television programming and will conduct such other activities as authorized herein as may be necessary to insure equitable and reasonable rates and service levels

for the citizens of all of the members of the organization.

### III. NAME

The name of the organization authorized to conduct that authority granted herein is the Cloquet Cable Commission.

### IV. DEFINITION OF TERMS

Section 1. For the purposes of this Agreement, the terms defined in this Article shall have the meanings given to them.

Section 2. “Cloquet Cable Commission” means the membership board or representatives serving as board members on the board supervising the operation of the CAT 7 local access channel.

Section 3. “Council” or “Board” means the governing body of a member governmental entity to this Agreement.

Section 4. “Franchise” means that cable communications franchise agreement negotiated between the Cloquet Cable Commission and Franchisee providing services as authorized by law.

Section 5. “Grantee” means the person or entity to whom a franchise has been granted by a member.

Section 6. “Member” means any municipality or township which enters into this Agreement.

Section 7. “System” means that cable communications system more specifically defined in the franchise agreement attached to this Agreement.

### V. MEMBERSHIP

Section 1. The municipalities of Scanlon, Cloquet, Carlton and Thomson Township are eligible to participate and designate community members to serve on the Cable Commission.

Any municipality geographically contiguous to any of these named municipalities, and served by a cable communications system through the same Grantee, are eligible to become a Member pursuant to the terms of this Agreement.

Section 2. Any municipality desiring to become a Member shall execute a copy of this Agreement and conform to all requirements herein.

Section 3. The Members shall be those municipalities listed in Section 1 of this Article V.

Section 4. Municipalities desiring to become Members after the date specified in Article V, Section 3 may be admitted by an affirmative vote of two-thirds (2/3) of the votes of the existing Members of the Cable Commission. The Cable Commission may, by resolution, impose conditions upon the admission of additional members.

#### VI. MEMBERS OF THE BOARD OF DIRECTORS; VOTING

Section 1. Each Member shall be entitled to at least two (2) directors to represent it on the Cable Commission. The City of Cloquet will be entitled to three (3) directors. The Each director is entitled to one vote and there will be nine (9) directors. Should a Member decide not to appoint directors to represent their entity, vacant positions can be filled, one at a time by the other participating Members with the order of vacant seats being filled in the following order based upon the number of subscribers residing in that geographic unit: Cloquet, Carlton, Scanlon and Thomson Township. Each member will serve a three year term which terms will be staggered as determined by the by-laws.

Section 2. A director shall be appointed by resolution of the Council or Board of each Member. A director shall serve until a successor is appointed and qualifies. Directors shall serve without compensation from the Cable Commission.

Section 3. Each Member shall appoint two directors and may designate an alternate director. The Commission, in its By-Laws, may prescribe the extent of an alternate's powers and duties.

Section 4. A vacancy in the office of director will exist for any of the reasons set forth in Minnesota Statutes Section 351.02, or upon a revocation of a director's appointment duly filed by a Member with the Cable Commission. Vacancies shall be filled by appointment for the unexpired portion of the term of director by the Council or Board of the Member whose position on the Board of Directors is vacant.

Section 5. There shall be no voting by proxy, but all votes must be cast by the director or the duly authorized alternate at a Cable Commission meeting.

Section 6. The presence of five directors representing a majority of the total authorized votes of all directors shall constitute a quorum, but a smaller number of directors may adjourn a meeting from time to time.

Section 7. A director shall not be eligible to vote on behalf of the director's municipality during the time said municipality is in default on any contribution or payment to the Cable Commission. During the existence of such default, the vote or votes of such Member shall not be counted for the purposes of this Agreement.

Section 8. All official actions of the Cable Commission must receive three-fifths (3/5) vote of all authorized votes cast on that issue at a duly constituted meeting of the Cable Commission and at least five directors must be present to conduct formal action. Abstentions shall not be considered authorized votes cast.



## VII. EFFECTIVE DATE; MEETINGS; ELECTION OF OFFICERS

Section 1. A municipality may enter into this Agreement by resolution of its Council or Board and the duly authorized execution of a copy of this Agreement by its proper officers. Thereupon, the clerk or other appropriate officer of the municipality shall file a duly executed copy of this Agreement, together with a certified copy of the authorizing resolution, with the Cable Commission. The resolution authorizing the execution of the Agreement shall also designate the director and the alternate for the municipality on the Cable Commission, along with said director's and alternate's address, and home and work phone numbers.

Section 2. This Agreement and any amendments thereto are effective on the date when executed agreements and authorizing resolutions of the municipalities named in Article V, Section 1 have been filed as provided in this Article.

Section 3. Officers of the Cable Commission shall be elected annually from its directors for one year terms. Officers shall be limited to two consecutive terms in a given office.

## VIII. POWERS AND DUTIES OF THE COMMISSION

Section 1. The powers and duties of the Cable Commission shall include the powers set forth in this Article.

Section 2. The Cable Commission may make such contracts, grants, and take such other action as it deems necessary and appropriate to accomplish the general purposes of the organization. The Cable Commission may not contract for the purchase of real estate without the prior authorization of the member municipalities. Any purchases or contracts made shall conform to the requirements applicable to Minnesota statutory cities.

Section 3. The Cable Commission shall assume all authority and undertake all tasks necessary to coordinate, administer, and enforce the Franchise with Mediacom except for that

authority and those tasks specifically retained by a Member.

Section 4. The Cable Commission shall continually review the operation and performance of the cable communications system of the Members and will advise Members on operations when requested.

Section 5. The Cable Commission shall undertake all procedures necessary to maintain uniform rates and to negotiate and handle applications for changes in rates for the services provided by the Grantee in the Franchise.

Section 6. The Cable Commission may provide for the prosecution, defense, or other participation in actions or proceedings at law in which it may have an interest, and may employ counsel for that purpose. It may employ such other persons as it deems necessary to accomplish its powers and duties. Such employees may be on a full-time, part-time or consulting basis, as the Cable Commission determines, and the Cable Commission may make any required employer contributions which local governments are authorized to make or it is required to make by law.

Section 7. The Cable Commission may conduct such research and investigation and take such action as it deems necessary, including participation and appearance in proceedings of the State and Federal regulatory, legislative or administrative bodies, on any matter related to or affecting cable communication rates, franchises, or levels of service.

Section 8. The Cable Commission may obtain from Grantee and from any other source, such information relating to rates, costs and service levels as any member is entitled to obtain from Grantee or others.

Section 9. The Cable Commission may also accept gifts, apply for and use grants, enter into agreements required in connection therewith and hold, use and dispose of money or property

received as a gift or grant in accordance with the terms thereof.

Section 10. The Cable Commission shall cause an annual independent audit of the books of the Cable Commission to be made and shall make an annual financial accounting and report in writing to the Members. Its books and records shall be available for examination by the Members at all reasonable times.

Section 11. The Cable Commission may delegate authority to committees of Board members as needed. Such delegation of authority shall be by resolution of the Cable Commission and may be conditioned in such a manner as the Cable Commission may determine.

Section 12. The Cable Commission is authorized to adopt By-Laws which may be amended from time to time.

Section 13. The Cable Commission shall assume all responsibility for community cable television programming within or for the geographic area of the participating Member municipalities. Should any Member withdraw from the Cable Commission as of the date of any renewal of the Cable Television Franchise Ordinance, or in any year thereafter, the withdrawing Member shall assume all responsibility for community cable television programming within or for the geographic boundaries of the withdrawing municipality.

Section 14. The Cable Commission may designate an entity or entities to perform any functions the Cable Commission deems necessary relative to the Commission's responsibility for community programming. The Cable Commission may provide funds, support services, and the use of equipment and property to the designated entity, provided that title to all equipment and property shall not pass to the designated entity without the prior approval of all directors.

## IX. OFFICERS

Section 1. The officers of the Cable Commission shall consist of a chair, a vice-chair, a

secretary/treasurer and they will be chosen from the directors serving on the Cable Commission. The position of secretary/treasurer will be vested in the City Administrator of the City of Cloquet who will be responsible for all financial transactions for the Cable Commission.

Section 2. A vacancy in the office of chair or vice-chair shall occur for any of the reasons for which a vacancy in the office of a director shall occur. Vacancies in these offices shall be filled by the Cable Commission for the unexpired portion of the term remaining.

Section 3. The three officers shall constitute the membership of the executive committee.

Section 4. The chair shall preside at all meetings of the Cable Commission and the executive committee. The vice-chair shall act as chair in the absence of the chair.

Section 5. The secretary/treasurer shall be responsible for keeping a record of all of the proceedings of the Cable Commission and the executive committee. The secretary/treasurer will be the Cloquet City Administrator who will serve as fiscal agent without compensation.

Section 6. The secretary/treasurer shall be responsible for custody of all funds, for the keeping of all financial records of the Cable Commission and for such other matters as shall be delegated by the Cable Commission relative to its operation. The Cable Commission may require that the secretary/ treasurer post a fidelity bond or other insurance against loss of Cable Commission funds in an amount approved by the Cable Commission, at the expense of the Cable Commission. Said fidelity bond or other insurance, if required, may cover all persons authorized to handle funds of the Cable Commission.

Section 7. The Cable Commission may appoint such other officers as it deems

necessary. All such officers shall be appointed from the membership of the Cable Commission.

#### X. FINANCIAL MATTERS

Section 1. The fiscal year of the Cable Commission shall be the calendar year.

Section 2. Cable Commission funds may be expended by the Cable Commission in accordance with the procedures established by law for the expenditure of funds by Minnesota Statutory Cities.

Section 3. The sole financial contributions of the Members shall be the franchise fees paid by Mediacom consistent with its obligations under the Franchise Agreement signed with the City of Cloquet for the benefit of all Members within the cable system operation.

Section 4. A budget will be set by the Cable Commission. Such budget shall be deemed approved by a Member unless a Member gives notice to the Commission that it is withdrawing from the Cable Commission.

Section 5. Any Member may inspect and copy the Commission books and records at any and all reasonable times. All books and records shall be kept in accordance with normal and accepted accounting procedures and principles used by Minnesota Statutory Cities and will be maintained in the Offices of the City Administrator of the City of Cloquet.

#### XI. DURATION

Section 1. The Cable Commission shall continue to operate for an indefinite term unless the number of Members shall become less than two. The Commission may also be terminated by mutual agreement of all of the Members at any time.

Section 2. In order to prevent an obligation for its financial contribution to the Cable Commission for the ensuing year, a Member shall withdraw from the Commission by filing a written notice with the secretary/treasurer no later than October 15 of any year giving notice of

withdrawal effective at the end of that calendar year; and membership shall continue until the effective date of the withdrawal. Prior to the effective date of withdrawal a notice of withdrawal may be rescinded at any time by a Member. If a Member withdraws before dissolution of the Cable Commission, the Member shall have no claim against the assets of the Cable Commission. A Member withdrawing after October 15 shall be obligated to pay its entire contribution for the ensuing year.

Section 3. Should any Member withdraw from the Cable Commission as of the date of any renewal of the Cable Television Franchise Ordinance, or in any year thereafter, the withdrawing member shall assume sole responsibility for community programming within and for the geographic boundaries of the withdrawing municipality.

Section 4. In the event of dissolution, the Cable Commission shall determine the measures necessary to affect the dissolution and shall provide for the taking of such measures as promptly as circumstances permit, subject to the provisions of this Agreement. Upon dissolution of the Cable Commission all remaining assets of the Cable Commission, after payment of obligations, shall be distributed among the then existing Members in proportion to the most recent breakdown of the franchise fees as reported by the Grantee. The Commission shall continue to exist after dissolution for such period, but no longer than six months, as is necessary to wind up its affairs but for no other purpose.

**IN WITNESS WHEREOF**, the undersigned municipality has caused this Agreement to be signed on its behalf on the date noted below:

CITY OF SCANLON

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

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

Mayor

Attested to by:

\_\_\_\_\_

City Clerk

CITY OF CLOQUET

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

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

Mayor

Attested to by:

\_\_\_\_\_

City

Administrator

CITY OF CARLTON

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

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

Mayor

Attested to by:

\_\_\_\_\_

City Clerk

TOWN OF THOMSON

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016

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

Board Chair

Attested to by:

\_\_\_\_\_

Clerk

PREPARED BY:

Frank Yetka

RUDY, GASSERT, YETKA, PRITCHETT




## ADMINISTRATIVE OFFICES

1307 Cloquet Avenue • Cloquet MN 55720  
Phone: 218-879-3347 • Fax: 218-879-6555  
email: admin@ci.cloquet.mn.us  
www.ci.cloquet.mn.us

### REQUEST FOR COUNCIL ACTION

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To: Mayor and City Council  
From: Brian Fritsinger, City Administrator   
Date: April 20, 2016

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**ITEM DESCRIPTION:** Section 2.3.01 of the City Code Related to the Cable Commission

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#### **Proposed Action**

Staff recommends that the City Council move to adopt **ORDINANCE NO. 455A, AN ORDINANCE DELETING SECTION 2.3.01 OF THE CITY CODE AS IT RELATES TO THE CABLE TV COMMISSION.**

#### **Background/Overview**

The City, as part of its City Code, has language that pertains to the Cable TV Commission. As part of the recent cable franchise renewal process, the City Attorney identified a need to solidify our legal obligations under the Agreement with our partner communities through a Joint Powers Agreement (JPA).

As a result, the Commission will be governed by the JPA and its own set of bylaws and rules. The City's ordinance has no applicability to its current operations. The City Attorney supports the deletion of this section of Code.

#### **Policy Objectives**

The City Code consists of all of the various laws and rules that are enacted by the City. An Ordinance must be enacted by a majority vote of all members of the Council. The City strives to have a City Code that is accurate and current in its form and structure.

#### **Financial/Budget/Grant Considerations**

There is no impact on the City's Operating Budget with this action.

#### **Advisory Committee/Commission Action**

N/A

#### **Supporting Documents Attached**

- Ordinance No. 455A



**ORDINANCE NO. 455A**

**AN ORDINANCE DELETING SECTION 2.3.01  
OF THE CITY CODE AS IT RELATES TO THE  
CABLE T.V. COMMISSION**

The City Council of the City of Cloquet does hereby ordain as follows:

**Section 1.** That Section 2.3.01 of the City Code is deleted in its entirety.

**Section 2.** Effective Date. This ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

Passed this 3<sup>rd</sup> day of May, 2016.

CITY OF CLOQUET

By: \_\_\_\_\_  
Its Mayor

ATTEST:

By: \_\_\_\_\_  
Its City Administrator


Published this \_\_\_\_\_ day of \_\_\_\_\_, 2016.



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**REQUEST FOR COUNCIL ACTION**

To: Mayor and City Council  
From: Caleb Peterson, Assistant City Engineer  
Reviewed by: Brian Fritsinger, City Administrator   
Date: April 26, 2016

**ITEM DESCRIPTION:** Awarding Bid for the Proposed Improvement of 3<sup>rd</sup> Street

**Proposed Action**

Staff recommends that the City Council move to adopt **RESOLUTION NO. 16-38, A RESOLUTION AWARDING 3<sup>rd</sup> STREET RECONSTRUCTION BID.**

**Background/Overview/Feasibility**

As part of the City's 5-Year Capital Improvement Program (CIP) and approved budget, plans were made to reconstruct 3<sup>rd</sup> Street from Cloquet Avenue to Carlton Avenue during 2016.

A public hearing on the proposed improvement was held before the City Council on March 1, 2016. At the conclusion of the hearing a resolution was passed ordering the improvement and directing the City Engineer to solicit bids for the project. Bids were advertised beginning March 31<sup>st</sup> and were received and opened on April 21<sup>st</sup>. Three bids were received as follows:

<u>Bidder</u>	<u>Bid Amount</u>
Hammerlund Construction, Inc.	\$ 958,000.00
Utility Systems of America, Inc.	\$ 984,215.85
Ulland Brothers, Inc.	\$ 978,400.00
Engineer's Estimate	\$1,118,600.00

**Policy Objectives**

To advance proposed capital improvement projects in accordance with State law.

**Financial/Budget/Grant Considerations**

The approved 2016 CIP and budget include an estimated cost for this project of \$930,000 with the following funding breakdown:

Water Fund	\$ 160,000
Sanitary Sewer Fund	\$ 110,000
Storm Sewer Utility Fund	\$ 12,000
Municipal State Aid	\$ 648,000

To Mayor and Council  
Awarding Bid for 3<sup>rd</sup> Street Reconstruction  
April 26, 2016  
Page 2

In accordance with City Code, a portion of these costs would be assessed to individual properties along the project route. The total assessable cost is estimated at \$195,000 approximately 20% lower than the preliminary estimates presented at the time of the public hearing.

**Advisory Committee/Commission Action**

N/A

**Supporting Documentation Attached**

- Resolution No. 16-38

**CITY OF CLOQUET  
COUNTY OF CARLTON  
STATE OF MINNESOTA**

**RESOLUTION NO. 16-38**

**A RESOLUTION AWARDING  
3<sup>rd</sup> STREET RECONSTRUCTION BID**

**WHEREAS**, The City has completed an engineering study to reconstruct 3<sup>rd</sup> Street from Cloquet Avenue to Carlton Avenue; and

**WHEREAS**, A resolution of the Council adopted on February 2, 2016, set a public hearing on the proposed improvement; and

**WHEREAS**, A hearing was held on March 1, 2016 at which time all persons desiring to be heard were given an opportunity to be heard thereon and the City Council ordered the improvement; and

**WHEREAS**, The City of Cloquet advertised and received the following bids for the project:

<u>Bidder</u>	<u>Bid Amount</u>
Hammerlund Construction, Inc.	\$ 958,000.00
Utility Systems of America, Inc.	\$ 984,215.85
Ulland Brothers, Inc.	\$ 978,400.00

**AND WHEREAS**, The apparent low bid from Hammerlund Construction, Inc. was found to meet the minimum bid requirements.

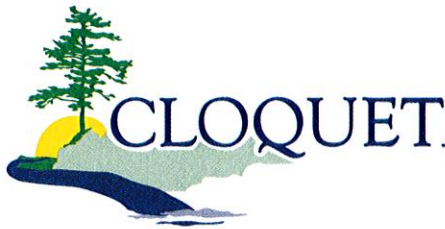
**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA**, That the bid from Hammerlund Construction, Inc. in the amount of \$958,000.00 is hereby accepted.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CLOQUET  
THIS 3<sup>rd</sup> DAY OF MAY, 2016.**

\_\_\_\_\_  
Dave Hallback, Mayor

ATTEST:

\_\_\_\_\_  
Brian Fritsinger, City Administrator



**ADMINISTRATIVE OFFICES**

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**REQUEST FOR COUNCIL ACTION**

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To: Mayor and City Council  
From: Caleb Peterson, Assistant City Engineer  
Reviewed by: Brian Fritsinger, City Administrator (R)  
Date: April 26, 2016

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**ITEM DESCRIPTION:** Awarding Bid for Skyline Boulevard Landscape Improvements

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**Proposed Action**

Staff recommends the City Council move to award the contract for Skyline Boulevard landscape improvements to Hoffman & McNamara for the low bid amount of \$61,914.00.

**Background/Overview/Feasibility**

Over the past two years, the City Council and staff have been discussing a number of landscape and park improvements, particularly along Highway 33 in Cloquet. As part of the City's 5-Year Capital Improvement Program (CIP) and approved budget, plans were prepared to complete one such improvement along Skyline Boulevard from the Highway up to the Cloquet Hospital.

The improvement involves the planting of approximately 75 deciduous and ornamental trees within the existing center median and along both sides of Skyline. Approximately 15 older existing trees would be removed to accommodate the new ones. Three shrub and perennial planting beds are also proposed in the center median down near Highway 33 and Adams Street.

On April 5, 2016 City Council authorized staff to solicit bids for the proposed landscape improvements. Bids were advertised beginning April 7<sup>th</sup> and were received and opened on April 21<sup>st</sup>. Three bids were received as follows:

<b><u>Bidder</u></b>	<b><u>Bid Amount</u></b>
Hoffman & McNamara Co.	\$ 61,914.00
AJ's Lawncare, Inc.	\$ 74,000.00
Land Logic, Inc.	\$ 88,407.00
Engineer's Estimate	\$ 79,200.00

**Policy Objectives**

To advance proposed capital improvement projects in accordance with State law.

**Financial/Budget/Grant Considerations**

The approved 2016 budget includes an estimated cost for this project of \$100,00 to be funded using sales tax revenues.

**Advisory Committee/Commission Action**

N/A

**Supporting Documentation Attached**

None.