

CITY OF
GEARHART

Staff Report

For City Council Meeting - 1/3/2024

Subject - New Business - Employee Handbook Amendments

Synopsis: In April 2021, the City adopted a new Employee Handbook as the original had not been updated since 1995. It was amended with corrections in June 2021. Since then, Justine has been working with Heather Van Meter of Miller Nash, the Mayor, and Councilor Gould to develop accurate job descriptions and salary schedules. Developing these items generated contradictory statements within the handbook and the need for further amendments. At the suggestion of both CIS and Miller Nash, a restructuring of the contents would be beneficial for supervisors and Council, including recent additions - such as Paid Leave - made by the State. The attached handbook draft is the result. Although it's been restructured and edited, it is still considered an amendment to the previous version.

Council Options:

- 1) Motion to approve the attached Employee Handbook as amended;
- 2) Make further changes;
- 3) Take other action desired by Council.

Recommendation: Staff recommends approving the attached amended version of the Employee Handbook. The Supervisors have already reviewed the draft and any comments will be discussed.

Legal Analysis: A simple motion is all that is needed to accept the amendments.

Financial Analysis: N/A

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'Chad', is written over a horizontal line.

Chad



Employee Handbook

DRAFT Adopted January 2024

Welcome to the City of Gearhart! We are glad to have you on our team. At the City of Gearhart, we believe that our employees are our most valuable assets. In fact, we attribute our success as an organization in significant part to our ability to recruit, hire, and maintain a motivated and productive workforce to serve our City's residents and visitors. We hope that during your employment with the City of Gearhart, you will become a productive and successful member of the City of Gearhart's team.

This employee handbook describes, in summary, the personnel policies and procedures that govern the employment relationship between the City of Gearhart and its employees, other than those that may exist in any applicable employment agreements. The policies stated in this handbook are subject to change at any time at the sole discretion of the City of Gearhart. This handbook supersedes any prior handbooks or written policies of the City of Gearhart, other than those found in any applicable employment agreements.

This handbook does not create a contract of employment between the City of Gearhart and its employees. Except for employees who are subject to an employment agreement (if any), all employment at City of Gearhart is "at-will." That means that either you or the City of Gearhart may terminate this employment relationship at any time, for any reason, with or without cause or notice. Only the City Administrator and the City Council have authority to enter into any agreement with you regarding the terms of your employment that changes our at-will relationship or deviates from the provisions in this handbook, and any such change must be in writing signed by the City Administrator and/or City Council.

You may receive updated information concerning changes in policy from time to time, and those updates should be kept with your copy of the handbook. If you have any questions about any of the provisions in the handbook, or any policies that are issued after the handbook, please ask your supervisor or the City Administrator.

Sincerely,

Chad Sweet
City Administrator
City of Gearhart

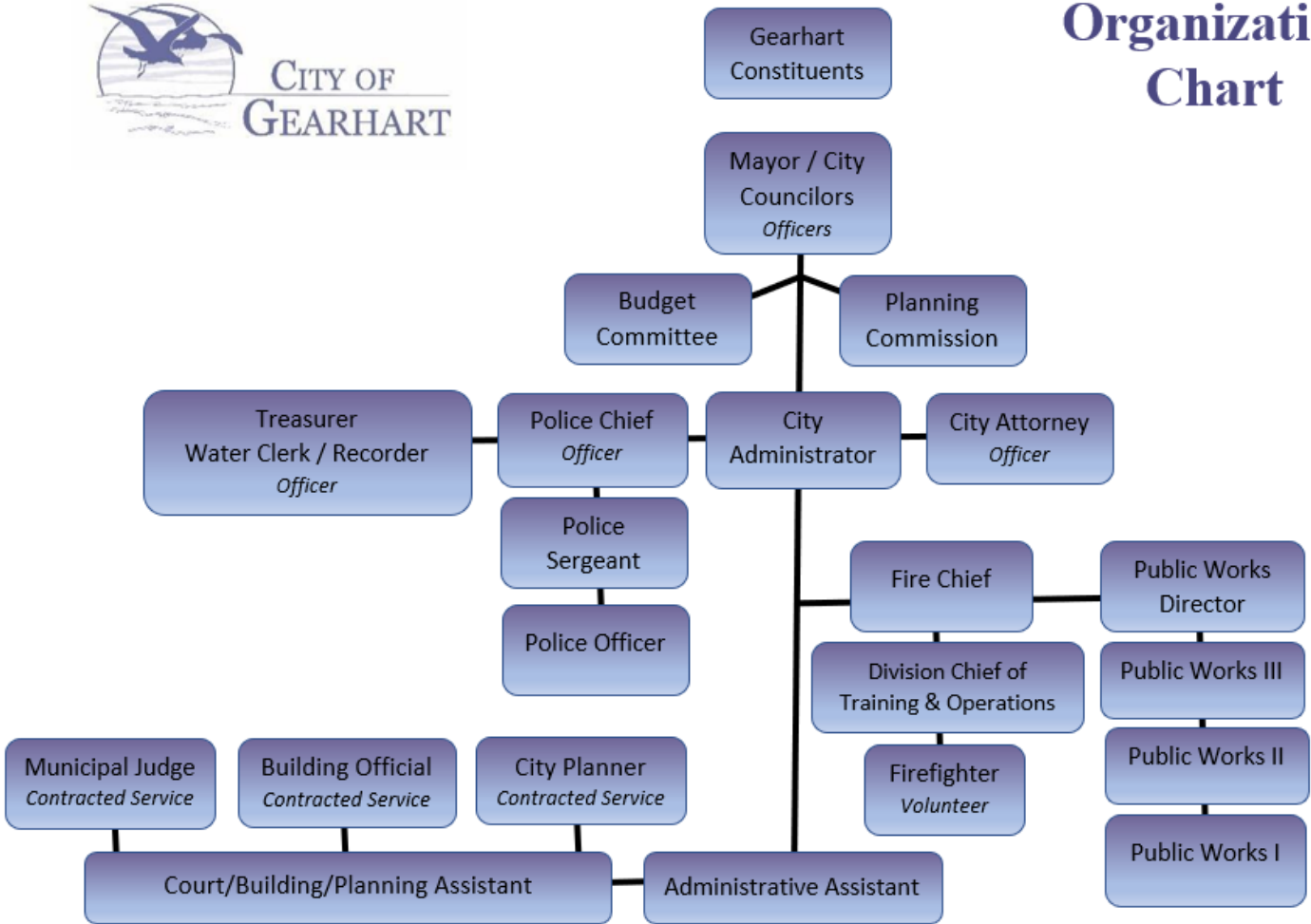
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Organization Chart



I. EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICIES

The following EEO Policies apply to all employees. Members of management, elected officials, and employees alike are expected to adhere to and enforce the following EEO Policies. Any employee's failure to do so may result in discipline, up to and including termination.

All employees are encouraged to discuss these EEO Policies with the City Administrator at any time if they have questions relating to harassment, discrimination, bullying, or what it means to work in a respectful workplace.

A. NON-DISCRIMINATION, NON-RETALIATION POLICY

The City of Gearhart provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, marital status, domestic violence victim status, or any other status protected by applicable federal, Oregon, or local law. The City of Gearhart also recognizes an employee's right to engage in protected collective activity under Oregon and federal law, as discussed in various policies below, and will not retaliate against an employee for engaging in protected collective activity, and no part of this handbook can or should be construed to limit an employee's right to engage in protected collective activity in any way.

The City of Gearhart's commitment to equal opportunity applies to all aspects of the employment relationship — including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

B. STATEMENT REGARDING PAY EQUITY

The City of Gearhart supports Oregon's Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees on the basis of a protected class (as defined by Oregon law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which the City of Gearhart pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with the City Administrator.

See "STATEMENT REGARDING PAY PRACTICES" policy below.

C. NON-HARASSMENT, NON-DISCRIMINATION POLICY

The City of Gearhart prohibits harassment and unlawful discrimination of any kind in the workplace. Specifically, the City of Gearhart prohibits harassment or unlawfully discriminatory conduct related to an individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, marital status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

All employees are responsible for respecting the rights of other employees and the requirement to refrain from engaging in conduct prohibited by this policy, regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or the City Administrator, at any time if they have questions or concerns relating to discrimination, harassment, or bullying.

This policy prohibits harassment or unlawful discrimination that occurs during working hours, during City of Gearhart related or sponsored trips (such as conferences or work-related travel), and when off-duty conduct creates an unlawful hostile work environment for any of the City of Gearhart's employees. ***Such harassment is prohibited whether committed by the City of Gearhart employees or by non-employees (including elected officials, members of the community, volunteers, interns, and vendors).***

Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is “welcome”), when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual's body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex, sexual orientation, or gender identity.

This is not a complete list.

Other Forms of Prohibited Harassment/Discrimination

The City of Gearhart policy prohibits harassment or unlawful discrimination against an individual based on the individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, marital status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Such harassment may include verbal, written, or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual's protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
- Negative stereotyping;
- Displaying racist symbols anywhere on City of Gearhart property;
- "Teasing" or mimicking the characteristics of someone with a physical or mental disability;
- Criticizing or making fun of another person's religious beliefs, or "pushing" your religious beliefs on someone who does not share them;
- Threatening, intimidating, or hostile acts that relate to a protected class or protected activity;
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

Bullying

The City of Gearhart strives to promote a positive, professional work environment free of physical or verbal harassment, "bullying," or discriminatory conduct of any kind. The City of Gearhart, therefore, prohibits employees from bullying one another by engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment for another employee for any reason. For purposes of this policy, "bullying" refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s).

Examples of bullying include:

1. Verbal Bullying: Slandering, ridiculing, or maligning a person or person's family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
2. Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
3. Gesture Bullying: Non-verbal threatening gestures, glances that can convey threatening messages.

4. Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets; as well as, communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on web sites for co-workers, supervisors or elected officials.

This is not a complete list.

Complaint Procedure

Employees, volunteers, or interns who have experienced sexual assault, harassment, discrimination, or bullying in violation of this policy, who have witnessed such behavior, or who have credible information about such behavior occurring, are expected to and shall bring the matter to the attention of the City Administrator, the Mayor, or a supervisor as soon as possible. Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail message (or phone call). An employee who experiences or witnesses harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that the behavior should stop.

Investigation and Confidentiality

All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible, consistent with the City's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, the City of Gearhart will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to appropriate disciplinary action, up to and including termination of employment.

Employees who have been subjected to sexual assault, harassment, discrimination, or bullying are encouraged to document the situation using the City of Gearhart's complaint-reporting procedure, described above, to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil. Although the City of Gearhart cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121. Further, before an employee can take any legal action against the City of Gearhart, the employee must provide written notice of the claim(s) within 180 days of the act or omission the employee claims have caused harm ("tort claim notice").

Protection against Retaliation

The City of Gearhart prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing, discriminatory, or bullying conduct, or has participated in an

investigation of such conduct. Employees who believe they have been retaliated against in violation of this policy should immediately report it to the City Administrator, the Mayor, or any supervisor. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

See “NON-DISCRIMINATION, NON-RETALIATION” policy above, and “REPORTING IMPROPER OR UNLAWFUL CONDUCT – NO RETALIATION” policy below.

In accordance with the Oregon Workplace Fairness Act, an employee who pursues a legal claim against City of Gearhart based on alleged unlawful employment practice prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) must do so no later than five (5) years after the occurrence of the alleged unlawful employment practice. City of Gearhart will not require or coerce a former, current, or prospective employee to enter into a non-disclosure or non-disparagement agreement that has the purpose or effect of preventing the person from disclosing or discussing conduct prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) when that conduct occurred between employees or between the City of Gearhart and an employee in the workplace or at certain work-related events, or that occurred between the City of Gearhart and an employee off the employment premises; except an employee claiming to be aggrieved by unlawful conduct may request to enter into a settlement, separation, or severance agreement which contains a non-disclosure, non-disparagement, or “no-rehire” provision and the employee will have seven (7) calendar days to revoke the agreement (this does not apply if City of Gearhart makes a good faith determination that the employee has engaged in conduct prohibited by ORS 659A.030, ORS 659A.082 or 659A.112). Employees are encouraged to promptly report concerns or to otherwise document any incidents involving conduct that may constitute unlawful discrimination or sexual assault. As defined by the Oregon Bureau of Labor and Industries, a “nondisclosure agreement” is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related harassment, discrimination, or sexual assault, including the amount or terms of a settlement; a “nondisparagement agreement” is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or oral statements about any other party or the company; and a “no-rehire provision” is an agreement that prohibits an employee from seeking reemployment with the company and allows a company to not rehire that individual in the future.

Employee Resources Available

The City of Gearhart provides an Employee Assistance Program (EAP) through Canopy to employees and dependents who are eligible for the City of Gearhart’s medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free 1-800-433-2320, text 503-850-7721; email info@canopywell.com; or go to canopywell.com. The EAP program provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others.

The City of Gearhart cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

Other Employee Rights

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing this experience. If the City of Gearhart and an employee agree to enter into a severance or settlement agreement relating to harassment or discrimination, the employee will have seven days (7) to revoke the agreement after signing it, and the City of Gearhart will not require an employee to enter into a nondisclosure or confidentiality provision or a non-disparagement provision as part of the severance or settlement agreement.

The City of Gearhart is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, bullying, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the City of Gearhart to inform employees and volunteers that if they have been aggrieved by workplace sexual assault, harassment, discrimination, bullying, or retaliation, or and want to enter into an agreement with the City of Gearhart regarding these experiences and/or employment status, the employee should contact the City Administrator. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If the City of Gearhart and employee do reach an agreement, the City of Gearhart will comply with Oregon law applicable to such agreements. For instance, the City of Gearhart will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightingly about the City of Gearhart or making comments that would lower the City of Gearhart in rank or reputation). If, however, the employee initiates the request for the agreement, nondisclosure and non-disparagement are terms that may be agreed upon between the employee and the City of Gearhart. The employee will have seven days (7) to revoke the agreement after signing it.

D. DISABILITY ACCOMMODATION POLICY

The City of Gearhart is committed to complying fully with the Americans with Disabilities Act (ADA) and Oregon's disability accommodation and anti-discrimination laws. We are also committed to ensuring equal opportunity in employment for qualified persons with disabilities.

Accommodations

The City of Gearhart will make efforts to reasonably accommodate a qualified applicant or employee with a known disability unless such accommodation creates an undue hardship on the City of Gearhart.

Requesting an Accommodation

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job,

or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying certain work equipment or devices, providing readers and interpreters, or making the workplace physically accessible to and usable by people with disabilities.

Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position, and then engage in an interactive process with the City of Gearhart regarding the need for accommodation. All requests for accommodation should be made to the City Administrator and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation, so that the City of Gearhart can engage in an interactive process (aka discussion) with the employee regarding the accommodation(s). In some cases, an employee will need to secure medical verification of their need for a reasonable accommodation.

E. PREGNANCY ACCOMMODATION POLICY

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact the City Administrator to discuss their options for continuing to work and, if necessary, leave of absence options. The City of Gearhart will provide reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on the City of Gearhart's operations.

Although this policy refers to "employees," the City of Gearhart will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth, or a related medical condition, and applicants are encouraged to request any necessary accommodations for the application process.

Requesting a Pregnancy-Related Accommodation

Employees who are concerned that their pregnancy, childbirth, or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made to the City Administrator and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In some cases, information from the employee's doctor may be needed to assist the City of Gearhart and the employee find an effective accommodation, or to verify the employee's need for an accommodation.

No Discrimination, No Retaliation

The City of Gearhart prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by the City of Gearhart; or (3) needed an accommodation.

Employees who ask about, request, or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to

perform the essential functions of the job or when the employee does not have a known limitation. Under Oregon law, an employer cannot require an employee to use sick leave if a reasonable accommodation can be made that does not impose an undue hardship on the operations of the City of Gearhart. Also, no employee will be denied employment opportunities if the denial is based on the need of the City of Gearhart to make reasonable accommodations under this policy.

Leave of Absence Options for Pregnant Employees

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Oregon's sick leave law; FMLA/OFLA; Paid Leave Oregon; reference policies herein; or speak with the City Administrator.

F. REPORTING IMPROPER OR UNLAWFUL CONDUCT — NO RETALIATION

Employees may report reasonable concerns about the City of Gearhart's compliance with any law, regulation, or policy using one of the methods identified in this policy. The City of Gearhart will not retaliate against employees who disclose information that the employee reasonably believes is evidence of a violation of any federal, Oregon, or local law, rules, or regulations by the City of Gearhart:

- Mismanagement, gross waste of funds, abuse of authority;
- A substantial and specific danger to public health and safety resulting from actions of the City of Gearhart;
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the City of Gearhart will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county, or metropolitan service district.

Employee Reporting Options

In addition to the City of Gearhart's Open Door Policy (see below), employees who wish to report improper or unlawful conduct are encouraged to first talk to their supervisor. Supervisors are required to promptly inform the City Administrator about employee reports of improper or unlawful conduct they receive from employees. If the employee is not comfortable speaking with the supervisor, or are not satisfied with the supervisor's response, the employee is encouraged to speak with the City Administrator.

Employee reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation. If the City of Gearhart were to prohibit, discipline, or threaten to discipline an employee for engaging

in the reporting activity described above, the employee may report this to the City Administrator or file a complaint with the Oregon Bureau of Labor and Industries (BOLI), or bring a civil action in court to secure all remedies provided for under Oregon law.

Additional Protection for Reporting Employees

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the City of Gearhart's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the employee's disclosure must relate to the conduct of a co-worker or supervisor acting within the course and scope of employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a supervisor with the City of Gearhart; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

Policy Against Retaliation

The City of Gearhart will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes the employee is disclosing information about conduct that is improper or unlawful, and who lawfully accessed information related to the violation (including information that is exempt from disclosure as provided in Oregon law or by City of Gearhart policy).

In addition, the City of Gearhart prohibits retaliation against an employee because the employee participates in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no City of Gearhart employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of applicable laws and regulations. The City of Gearhart may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect employees from the consequences of their own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if the City of Gearhart determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

II. EMPLOYMENT STATUS

A. INTRODUCTORY PERIOD OF EMPLOYMENT

All new employees, including current employees who are promoted or transferred within the City of Gearhart, are hired into an introductory training period that generally lasts no less than 90 days; however, different departments may have longer introductory periods. The introductory, or probationary period, is an extension of the employee selection process. During this period, the employee is considered to be in training and under observation and evaluation by the supervisor. An evaluation of the employee's adjustment to work tasks, conduct and other work rules, attendance and job responsibilities will be considered during the introductory period. This period gives the employee an opportunity to demonstrate satisfactory performance for the position, and also provides an opportunity to determine if the knowledge, skills and abilities and the requirements of the position match. It is also an opportunity for the employee to decide if the City of Gearhart meets the employee's expectations.

At or before the end of the introductory period, a decision about the employee's employment status will be made. The City of Gearhart will decide whether to: (1) Extend the introductory period; (2) Move the employee to regular, full-time, or regular, part-time status; or (3) Terminate employment. Employees are not guaranteed any length of employment upon hire or transfer/promotion; employees and the City of Gearhart may terminate the employment relationship during the introductory period for any lawful reason, pursuant to the "at-will" status. Further, completion of the introductory period or continuation of employment after the introductory period does not entitle an employee to remain employed by the City of Gearhart for any definite period of time. Employees and the City of Gearhart are free to terminate the employment relationship, at any time, with or without notice and for any reason not prohibited by law.

B. EMPLOYEE CLASSIFICATION

The City of Gearhart classifies employees as follows:

1. Regular Full-time: Employment in an established position requiring 40 hours or more of work per week. Generally, full-time employees are eligible to participate in the City of Gearhart's benefit programs.
2. Regular Part-time: Employment requiring less than 40 hours of work per week. Normally a part-time schedule, such as portions of days or weeks, will be established. Occasional workweeks of over 40 hours will not constitute a change in status from part-time to full-time. Regular, part-time employees are not eligible for benefits except those mandated by applicable law.
3. Temporary and/or Seasonal: Employment in a job established for a specific purpose, for a specific period of time, or for the duration of a specific project or group of assignments. Temporary or seasonal employment can either be full-time or part-time. Temporary or seasonal employees are not eligible for benefits other than those mandated by applicable law.

Additionally, all employees are defined by federal and Oregon law as either “exempt” or “non-exempt,” which determines whether the employee is eligible for overtime. Employees will be instructed as to whether they are exempt or non-exempt at the time of hire or when a promotion or demotion occurs. All employees, regardless of employment classification, are subject to all City of Gearhart rules and procedures.

C. THE WORKWEEK

The workweek is a seven-day work period based on a 40-hour workweek beginning Monday at 12:00 a.m. through Sunday at 11:59 p.m. Typically, business hours are from Monday through Friday 8:00 a.m. through 5:00 p.m. Supervisors may schedule alternative work hours on a temporary or regular basis depending on the demands for City services and department needs. Any modified work schedules should be reported to the City Administrator.

D. MEAL PERIODS AND REST BREAKS

Nonexempt employees are required to take a paid, uninterrupted 10-minute rest break for every four-hour segment or major portion thereof in the work period. The rest break should be taken in the middle of each segment, whenever possible. Whenever a segment exceeds two hours, the employee must take a rest break for that segment. Because of the nature of City work, an employee may need to make adjustments and take breaks when possible. Failure to take breaks may result in disciplinary action.

Nonexempt employees are required to take at least a 30-minute unpaid meal period when the work period is six hours or greater. The law requires an uninterrupted meal period in which the employee is relieved of all duties and free to leave the property. No meal period is required if the work period is less than six hours. If, because of the nature or circumstances of the work, an employee is required to remain on duty or to perform any tasks during the meal period, the employee must inform the supervisor so that the City of Gearhart may pay the employee for that work. Failure to inform the supervisor may result in disciplinary action.

Sample rest and meal break schedules are listed below. Employees with questions about the rest breaks or meal periods available to the employee should contact the City Administrator. If state law relating to rest breaks and/or meal periods is changed, the City of Gearhart will follow state law.

<i>Length of Work Period</i>	<i>Requirement</i>	
	<i>Rest Breaks</i>	<i>Meal Periods</i>
2 hours or less	0	0
2 hrs & 1 min – 5 hrs & 59 min	1	0
6 hrs	1	1
6 hrs & 1 min – 10 hrs	2	1
10 hrs & 1 min. – 13 hrs & 59 min	3	1

E. REST BREAKS FOR EXPRESSION OF BREAST MILK/BREAST-FEEDING

The City of Gearhart will provide reasonable rest breaks to accommodate an employee who needs to express milk for or breast-feed a child three years of age or younger. If possible, the employee will take the rest breaks at the same time as the rest breaks or meal periods that are otherwise provided to the employee. If not possible, or if the employee is exempt, the employee is entitled to take a reasonable break each time the employee has a need to express breast milk/breast-feed.

The City of Gearhart will treat the rest breaks used by the employee for these purposes as paid rest breaks up to the amount of time the City of Gearhart is required to provide as paid rest breaks and/or meal periods under applicable personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest breaks and/or meal periods may be taken as unpaid time.

If an employee takes unpaid rest breaks, the City of Gearhart may, at the discretion of the employee's supervisor, allow the employee to work before or after normal shift to make up the amount of time used during the unpaid rest periods. The City of Gearhart will allow, but not require, an employee to substitute paid leave time for unpaid rest periods taken in accordance with this policy.

The City of Gearhart will make a reasonable effort to provide the employee with a private location close to the employee's work area. For purposes of this policy, "close" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. A "private location" is a place, other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk/breast-feed concealed from view and without intrusion by other employees or the public.

If a private location is not within close proximity to the employee's work area, the City of Gearhart will identify a private location the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.

Notice

An employee who intends to express milk/breast-feed during work hours must give their supervisor or the City Administrator reasonable oral or written notice of the employee's intention to do so in order to allow the City of Gearhart time to make any preparations necessary for compliance with this rule.

Storage

Employees are responsible for safely storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration for personal use, an employee who expresses milk during work hours may use the available refrigeration, provided expressed milk is clearly marked and in a sealed container to avoid spills/contamination.

F. OVERTIME

Supervisor Authorization

Supervisors will review and approve non-exempt overtime when approving time sheets prior to them being submitted to the City Treasurer. Absent an emergency, non-supervisors shall seek supervisor approval before working overtime.

Time-and-a-Half

The City of Gearhart pays one and one-half times a non-exempt employee's hourly rate for all hours worked over 40 in any workweek.

See "EMPLOYEE CLASSIFICATION" policy above.

Assignment of Overtime Work

Employees may occasionally be required to work overtime. When overtime work is required by the City of Gearhart on a particular job on a shift commencing on a day other than Saturday, Sunday, or a holiday, the non-exempt employee performing that job at the conclusion of the straight-time hours will normally be expected to continue to perform the job on an overtime basis. When overtime work is assigned by the City of Gearhart on a Saturday, Sunday, or holiday, it generally will be assigned at the direct supervisor's discretion.

When overtime is required by the City of Gearhart on a Sunday or on a holiday, the City of Gearhart will endeavor to give the employees required to work notice of their assignment during their last shift worked prior to such Sunday or holiday. Any regular full-time employee that is required to work on a holiday will receive time and a half payment for the hours worked.

Compensatory (Comp) Time

Overtime hours can be paid or, at the employee's option with the City of Gearhart prior written approval, accumulated at time and one-half up to a maximum of 40 hours and taken as comp time off.

When an employee is separated from employment with the City of Gearhart, any remaining comp time will be paid to the employee. Employees may not accrue more than 40 hours of comp time.

Timekeeping Requirements

All non-exempt employees must accurately record time worked on a timecard for payroll purposes. Employees are required to record their own time at the end of each work shift/period. Employees also must record their time whenever they leave the building for any reason other than City of Gearhart business. Other than supervisors, employees filling out another employee's timecard, or allowing or directing another employee to fill out the employee's timecard, or altering any timecard, or including false information on a timecard may be grounds for discipline.

up to and including termination. An employee who fails to accurately record the time may be subjected to discipline as well.

G. EMPLOYEE-INCURRED EXPENSES AND REIMBURSEMENTS

The City of Gearhart encourages employee educational goal setting and educational opportunities to improve the knowledge and function of the City departments. The City of Gearhart will pay actual and reasonable business-related expenses incurred by employees in the performance of the employee's job responsibilities if they are: (1) listed below or elsewhere in this handbook; and (2) pre-approved by the supervisor or the City Administrator before they are incurred. The City of Gearhart will not pay for or reimburse the costs incurred by a spouse, registered domestic partner, or travel companion who accompanies the employee on City of Gearhart approved travel.

Some examples of actual and reasonable business-related expenses that the City of Gearhart will reimburse/pay for are:

- *Conferences or Workshops, including Certifications in the area of work;*
- *Education;*
- *Meals, excluding alcoholic beverages;*
- *Mileage and Parking.*
 - o Employees will be reimbursed for pre-authorized use of their personal vehicles at a rate established by the Internal Revenue Service. Reasonable parking costs are also reimbursed upon submission of receipts on an expense report. Any traffic citations or court-ordered fees relating to driving or parking offenses (including parking tickets) are the responsibility of the employee and will not be reimbursed by the City of Gearhart.
- *Participation in and successful completion of special training courses may be considered in making advancement and promotions. Evidence of such activity will be filed in the employee's personnel file.*

Employees must provide a completed, signed expense report and evidence of proof of purchase (detailed receipts) within one month of the expense being incurred or the employee risks forfeiting their payment or reimbursement.

H. PAYROLL POLICIES AND COMPENSATION

Employees will be paid bimonthly, occurring twice a month. For employees, "month" is defined as the 1st to the 31st, and those are the dates to be reported on a timecard. Paydays are generally five days after the pay period ends. The City of Gearhart does not provide advance payments of salary/wages, or loans from salary/wages, to employees.

Net pay will be directly deposited into the employee's bank account unless an employee requests otherwise. If an employee requests to pick up a payroll check from the City of Gearhart, only the employee named on the paycheck will be allowed to do so unless the employee provides written permission to the City of Gearhart for someone else to receive the check.

Compensation

A wage/salary schedule will be established for each job. The schedule will include minimum and maximum wage/salary ranges for each job with seven (7) steps. Any increase to the employee's wage/salary shall be based on satisfactory work performance for the preceding year, and is discretionary and subject to City Administrator's, Mayor's and Treasurer's approval. Any merit raise amounts, wage/salary schedule revisions, or cost of living adjustments (COLAs) will be decided on by the Gearhart City Council. Annually, during budget preparation, the budget officer will review the wage/salary schedules and whether changes are recommended. The budget officer will present wage/salary schedule change recommendations to the Budget Committee, who will make recommendations to the City Council, who will establish the rates of pay.

I. STATEMENT REGARDING PAY PRACTICES

The City of Gearhart makes all efforts to comply with applicable Oregon and federal wage and hour laws. In the event an employee believes that the City of Gearhart has made any improper deductions, has failed to pay for all hours worked or for overtime, has failed to pay in accordance with the law, or has failed to properly calculate wages in any way, the employee must immediately (within three business days) report the error to the City Administrator. The City of Gearhart will investigate all reports of incorrect or improper pay practices and will reimburse employees for any improper wages, deductions or omissions. No employee will suffer retaliation or discrimination based on reporting errors or complaints regarding the City of Gearhart's pay practices.

See "STATEMENT REGARDING PAY EQUITY" policy above.

J. REPORTING CHANGES TO AN EMPLOYEE'S PERSONAL DATA

Because personnel records are used to administer pay and benefits, and other employment decisions, employees are responsible for keeping information current regarding changes in name, address, phone number, exemptions, dependents, beneficiary, etc. Keeping your personnel records current can be important to you with regard to pay, deductions, benefits, and other matters. If you have changes in any of the following items, please notify the City Treasurer to ensure that the proper updates/paperwork are completed as quickly as possible:

- Name;
- Marital status/Domestic Partnership (for purposes of benefit eligibility determination);
- Address and telephone number;
- Dependents;
- Person to be notified in case of emergency;
- Other information having a bearing on your employment;
- Tax withholding.

Employees may not intentionally withhold information from the City of Gearhart about the items listed above in order to continue to receive or inhibit providing benefits or anything of value for themselves or anyone else. Employees who violate this policy may be subject to discipline, up to and including termination. Upon request, the City of Gearhart may require employees to provide proof of marital status/domestic partnership status, or other information required for provision of benefits or compliance with benefit plans.

K. PERFORMANCE REVIEWS

All City of Gearhart employees will receive periodic performance reviews. Performance reviews serve as one factor in decisions related to employment, such as training, merit pay increases, job assignments, employee development, promotions, and discipline/termination. Any employee who fails to satisfactorily perform the duties of the position is subject to disciplinary action (including termination). The City of Gearhart will strive to provide a formal performance review every 12 months. Reviews will generally include the following:

- An evaluation of the employee's quality and quantity of work;
- A review of exceptional employee accomplishments;
- Establishment of goals for career development and job enrichment;
- A review of any areas needing improvement;
- Setting of performance goals for the employee for the following year; and
- Any increase to the employee's wage/salary, which shall be based on satisfactory work performance for the preceding year, and is discretionary and subject to the City of Gearhart's approval in the process described in *Compensation*, above.

Employees who disagree with a performance evaluation may submit a written response with reasons for disagreement. The employee's response shall be filed with the employee's performance evaluation in the employee's personnel file. Such response must be submitted by the employee not later than 30 days following the date the performance evaluation was received by the employee.

Supervisors are encouraged to provide employees with informal evaluations of their employees' work on an as-needed basis.

L. EMPLOYMENT OF PERS RETIREES

The City of Gearhart may hire individuals who have retired from the Public Employees' Retirement System ("PERS"). The PERS retiree is responsible for investigating any restrictions on returning to work with a PERS employer. Employment by the City of Gearhart is subject to the provisions in applicable state law, including PERS rules and City Council's final approval.

III. TIME OFF AND LEAVES OF ABSENCE

A. ATTENDANCE, PUNCTUALITY AND REPORTING ABSENCES

Employees are expected to report to work as scheduled, on time and be prepared to start work.

Employees are also expected to remain at work for their entire work schedule, except for unpaid meal/break periods or when required to leave on authorized City of Gearhart business, and perform the work assigned to or requested of them. Late arrivals, early departures, or other absences from scheduled hours are disruptive and must be avoided, and may subject an employee to discipline.

Unless specified otherwise in a policy below, employees who will be unexpectedly absent from work for any reason or who will not show up for work on time must inform their supervisor via phone call or text as soon as possible, but no later than two (2) hours before the start of the employee's shift/work day. Not reporting to work and not calling to report the absence is a no-call/no-show and is a serious matter and may subject the employee to discipline up to and including termination. A no call/no show lasting three (3) days or more may be considered job abandonment and result in termination of employment.

B. VACATION

It is the policy of the City of Gearhart to provide each full-time employee with vacation time. The amount of vacation to which an employee becomes entitled is determined by the employee's length of service as of the employment anniversary date. For regular, full-time employees, vacation accrues as follows:

1. At the end of the first year of service, 40 hours of vacation.
2. Two years or through five years of service, 80 hours of vacation per year.
3. Six years or more but less than 15 years of service 120 hours of vacation per year.
4. Fifteen years or more of service, 160 hours of vacation per year.

Regular, part-time employees earn vacation on their employment anniversary date in the proportion that their normally scheduled number of hours bears to 40 per week. For example, a regular, part-time employee who usually works 20 hours per week would earn 20 hours of vacation upon completing the first year of service.

Vacation does not accrue between employment anniversary dates and may not be taken until it is earned. Vacation time must be used in the year after which it is earned and may not be carried over to the next year. For example, an employee with 40 hours of vacation as of the third anniversary date must use the forty hours prior to the fourth anniversary date. If an employee fails to take earned vacation time before the employee's anniversary date, the unused vacation shall expire; no payout of vacation time is allowed for any reason to encourage employees to use

vacation when it is earned. Any current, unused employee vacation time will be paid at the time of termination at the employee's regular rate of pay.

Vacation must be scheduled with one's supervisor at least two weeks in advance of the date(s) the employee wishes to take as vacation. Employees are not entitled to pay in lieu of taking time off for vacation.

C. SICK LEAVE AND OREGON PAID SICK TIME LAW

The following policy is current as of the date of this handbook. If federal or state leave laws are changed or revised, City of Gearhart will comply with the applicable law.

Sick Leave

The City of Gearhart provides eligible employees with sick time, which includes the employment classifications of full-time, hourly, salaried, exempt, and non-exempt. Employees begin accruing paid sick leave on the first day of employment. Regular full-time employees earn sick leave at a rate of 4 hours per pay period or 8 hours per month. Paid sick leave may be used as it is accrued. Paid sick leave may be used in increments. There is no maximum accrual balance. Temporary, part-time, and seasonal employees only earn leave under the Oregon Paid Sick Time Law.

See "Oregon Paid Sick Time Law" section below.

Pay Rate and Carryover

Paid sick leave will be paid at the employee's regular rate of pay. Generally, sick leave pay will be included in the paycheck for the next payroll period after sick leave is used, provided the employee submits adequate documentation verifying that the absence was for a qualifying reason as defined in the "Use of Sick Leave" section below.

Sick leave is meant to be used or carried over. For PERS retirement purposes, accumulated unused sick leave cannot exceed an accrual of more than eight hours per month worked less usage. The City of Gearhart will follow all applicable accumulated sick leave reporting requirements as per ORS 238.350. All accumulated sick leave dissolves with retirement and termination from the City of Gearhart for any reason. There is no cash or incentive payout.

Use of Sick Leave

Paid sick leave may be used each fiscal year for any of the reasons permitted by Oregon law, which as of July 2023 include:

1. For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition or need for preventive medical care. This is available for the employee or a covered family member.
 - i. "Family member" means the eligible employee's spouse, same-gender domestic partner (as described in ORS 106.300 to 106.340), biological child,

adopted child, stepchild, foster child; same-gender domestic partner's child, parent, adoptive parent, stepparent, foster parent, parent-in-law; same-gender domestic partner's parent, grandparent, grandchild; and any individual with whom the employee has or had an *in loco parentis* relationship.

2. For any purpose allowed under the Oregon Family Leave Act (OFLA) or the federal Family Medical Leave Act (FMLA).
3. If the employee, or the employee's minor child or dependent, is a victim of domestic violence, harassment, sexual assault or stalking as defined by Oregon law and requires leave for any of the purposes under Oregon's domestic violence leave law (ORS 659A.272).
4. In the event of certain public health emergencies or other reasons specified under Oregon's sick leave law.
5. Jury Duty and Witness Duty.

Employees absent from work for a qualifying reason must use accrued sick time hours for that reason and on each subsequent day of absence.

Employee Notice of Need for Sick Leave

Foreseeable Sick Leave – If the need for sick leave is foreseeable, an employee must notify the City Administrator or direct supervisor as soon as practicable before the leave is to begin. Generally, an employee must provide at least 10 days' notice for foreseeable sick leave. The request shall include the anticipated duration of the sick leave, if possible. Employees must make a reasonable effort to schedule foreseeable sick time in a manner that minimally disrupts the operations of the City of Gearhart. Employees must notify the City Administrator of any change in the expected duration of sick leave as soon as is practicable.

Unforeseeable Sick Leave – If the need for sick leave is unforeseeable, the employee must notify the City Administrator or direct Supervisor as soon as practicable and comply generally with City of Gearhart's call-in procedures.

An employee must contact the supervisor daily while on sick leave unless an extended period of sick leave has been prearranged with the supervisor or when off work on protected leave. The employee shall inform the supervisor of any change in the duration of sick leave as soon as practicable.

If an employee fails to provide proper notice or make a reasonable effort to schedule leave in a manner that is only minimally disruptive to the organization and operations, the City of Gearhart may deny the use and legal protections of sick leave.

Sick Leave Abuse

If the City of Gearhart suspects sick leave abuse, including but not limited to repeated use of unscheduled sick leave or repeated use of sick leave adjacent to weekends, holidays, vacations and paydays, the City of Gearhart may require documentation from a healthcare provider of the need of the employee to use sick time, regardless whether the employee has used sick time for more than three (3) consecutive days. Employees found to have abused sick leave as described here may also be subject to discipline, up to and including termination.

Oregon Paid Sick Time Law - Senate Bill 454 (2015; ORS 653.601-653.661)

As of July 2023, Oregon sick leave law entitles employees to one (1) hour of sick time for every 30 hours worked, up to 40 hours per year, usable after 90 days of employment. Temporary and seasonal employees will earn one (1) hour of paid sick time for every 30 hours worked or 1 ¹/₃ hours for every 40 hours worked throughout the plan year.

Mandatory Oregon paid sick time above 40 hours does not accrue and does not carry over year to year. Mandatory paid sick time is not paid out for any reason, including upon termination of employment. Mandatory paid sick time must be used in increments. Sick time is taken concurrently if it meets the same qualifying circumstance of other established paid leaves. When the reason for sick time is consistent with FMLA/OFLA leave (if applicable), the sick time and the FMLA/OFLA leave run concurrently. Sick time as provided in Oregon Laws 2015 does not constitute “sick leave” for purposes of PERS accumulated unused sick leave (ORS 238.350).

Employees with questions about this type of leave may contact the City Treasurer. Please also refer to the Oregon Sick Time Law poster that is posted in City Hall and is incorporated here by reference.

Treatment Provider Documentation

Employees using sick leave for more than three (3) consecutive days may be required to provide a treatment provider note stating the employee’s need to be off-work and the expected return to work date. Reasonable documentation includes documentation signed by a healthcare provider, or documentation for victims of domestic violence, harassment, sexual assault, or stalking. Additionally, employees using Oregon Paid Leave, FMLA/OFLA (if applicable), or other protected leave may be required to provide a treatment provider note stating the employee is able to return to work (identifying any restrictions or limitations on the return to work, if any).

D. HOLIDAYS

The City of Gearhart recognizes eleven holidays each year. All full-time employees will receive their regular straight-time compensation for each holiday. Regular part-time employees receive pay for each designated holiday in the proportion that their normally scheduled number of hours equals 40 hours per week.

The holidays recognized are:

New Year's Day	Martin Luther King, Jr.'s Birthday
President's Day	Memorial Day
Independence Day (July 4)	Labor Day
Thanksgiving Day	Day after Thanksgiving
Christmas Day	Veterans Day
Juneteenth	

A holiday that falls on a weekend will be observed on either the preceding Friday or the following Monday to coincide with local custom.

Any regular full-time employee that is required to work on a holiday will receive holiday pay of time and a half payment (1.5x) for the hours worked.

E. FAMILY MEDICAL LEAVE (FML) AND PAID LEAVE OREGON

Statement of No FMLA/OFLA Coverage

City of Gearhart employees are currently not eligible for unpaid leaves of absence under the Oregon Family Leave Act (OFLA) or the federal Family Medical Leave Act (FMLA) due to the entity's small size.

One exception is that the City of Gearhart will honor requests from eligible employees to take a leave of absence under the Oregon Military Family Leave Act. Thus, during a period of military conflict, as defined by law, eligible employees with a spouse or registered same-sex domestic partner who is a member of the Armed Forces, National Guard, or military reserve forces ("Military Spouse"), and who has been notified of an impending call or order to active duty (or who has been deployed) is entitled to a total of 14 days of unpaid leave per deployment after the Military Spouse has been notified of an impending call or order to active duty and before deployment and when the Military Spouse is on leave from deployment. To be an eligible employee and entitled to this leave, the employee must have worked an average of 20 hours per week prior to beginning the requested leave.

Paid Leave Oregon

The State of Oregon has a new partial wage-replacement insurance plan for Oregon workers. The cost of this insurance is paid by employee payroll deductions. Effective September 3, 2023, employees who have earned at least \$1,000 working for any employer in Oregon in the prior year may qualify for up to 12 weeks of *paid* family, medical or safe leave under Paid Leave Oregon, a statewide insurance program administered by the Oregon Employment Department ("OED"). In some pregnancy-related situations, the program may pay for up to 14 weeks of leave.

The amount of benefit you will receive is based on how much you earned in the previous year and subject to a formula based on Oregon's average wage. The decision whether an employee is eligible and qualified to receive paid leave is made solely by OED, not the City of Gearhart.

Qualifying Reasons for Leave

The qualifying reasons for leave are similar to, but not identical, to OFLA/FMLA in include:

- Parental leave to bond with a new child after birth, adoption, or foster placement;
- Family leave to care for a family member with a serious health condition;
- Medical leave to care for the employee's own serious health condition; and
- Safe leave for survivors of sexual assault, domestic violence, harassment, or stalking to obtain legal or medical assistance, obtain counseling and access support services, or relocate or take other steps to secure their health and safety.

The definition of a "family member" shall be determined by OED. The "benefit year" for Paid Leave Oregon purposes shall start on the Sunday immediately preceding the day that leave commences.

Notice Requirements

When the use of leave is foreseeable, the City of Gearhart requests employees provide 30 days' advance notice, or as much notice as possible. When the need for leave is not foreseeable, the City of Gearhart requests employees provide oral notice within 24 hours before or after the start of the leave and provide written notice within three (3) calendar days of the employee's return to work.

Medical Certification

It is the employee's responsibility to apply for Paid Leave Oregon benefits via the state's website, www.paidleave.oregon.gov, and comply with all the state's documentation requirements.

Concurrent Use with Other Paid Leave

Employees are not required to exhaust their accrued sick leave or vacation time prior to applying for Paid Leave Oregon benefits. If employees choose, and after providing notice to City of Gearhart, employees may use accrued paid leave to "top off" their Paid Leave Oregon benefits, but in no instance may employees use sick leave or vacation benefits in addition to Paid Leave Oregon benefits to earn more than 100% of their pre-leave average income.

F. BEREAVEMENT LEAVE

Up to 40 hours of unpaid bereavement leave will be granted to employees who have worked for the City of Gearhart for 90 or more days. This leave is provided to employees who have experienced the death of a family member and is unpaid; employees, however, may use accrued sick leave during the bereavement leave period. "Family Member" is defined to include the employee's spouse, same-sex domestic partner (registered), child, parent, parent-in-law, grandparent, or grandchild, or the same relations of an employee's same-sex domestic partner (registered) or spouse. Requests for bereavement leave must be made to the employee's

immediate supervisor before the leave is to begin. Depending on the circumstances, time off may be deducted from the employee's sick leave, vacation, or comp time banks. Please see the City Administrator for more information.

G. JURY AND WITNESS DUTY

Jury Duty

The City of Gearhart will grant employees time off for mandatory jury duty and/or jury duty orientation. A copy of the court notice must be submitted to the employee's supervisor to verify the need for such leave. Although jury duty leave is unpaid, the employee may keep the jury duty pay received from the court, and the employee may elect to use any accrued vacation, comp, or sick leave time during the duration of jury service. The employee is expected to report for work when doing so does not conflict with court obligations. It is the employee's responsibility to keep the supervisor informed about the amount of time required for jury duty.

Witness Duty

Time spent serving as a witness in a work-related, legal proceeding will be treated as time worked for pay purposes, provided the time served occurs during regularly scheduled hours, the employee is subpoenaed to testify, and the employee submits witness fees to the City Treasurer upon receipt. Except for employee absences covered under the City of Gearhart's "Crime Victim Leave Policy" or "Domestic Violence Leave and Accommodation Policy," employees who are subpoenaed to testify in non-work-related legal proceedings must use any available vacation, sick, or comp time to cover their absence from work.

H. RELIGIOUS OBSERVANCES LEAVE AND ACCOMMODATION POLICY

The City of Gearhart respects the religious beliefs and practices of all employees. The City of Gearhart will make, upon request, accommodation for such observances when reasonable accommodation is available that does not create an undue hardship on the City of Gearhart's operations or essential services. Employees may use vacation, comp, or unpaid time for religious holy days or to participate in a religious observance or practice; if accrued leave is not available, then an employee may request to take unpaid leave. Requests for religious leave or accommodation should be made to the City Administrator.

I. CRIME VICTIM LEAVE POLICY

Any employee who has worked an average of at least 25 hours per week for 180 days is eligible for reasonable, unpaid leave to attend criminal proceedings if the employee or an immediate family member (defined below) has suffered financial, social, psychological, or physical harm as a result of being a victim of certain felonies, such as kidnapping, rape, arson, and assault. "Immediate family member" includes a spouse, registered same-sex domestic partner, father, mother, sibling, child, stepchild, or grandparent.

Employees who are eligible for crime victim leave must:

- First use any accrued unused vacation, comp, or sick leave time;
- Provide as much advance notice as is practicable of the intention to take leave (unless giving advance notice is not feasible);
- Submit a request for the leave in writing to the City Administrator as far in advance as possible indicating the amount of time needed, when the time will be needed, and the reason for the leave.

In all circumstances, the City of Gearhart may require certification of the need for leave, such as copies of any notices of scheduled court proceedings that the employee receives from a law enforcement agency or district attorney’s office, police report, a protective order issued by a court, or similar official sources.

J. DOMESTIC VIOLENCE LEAVE AND ACCOMMODATION POLICY

All employees are eligible for reasonable unpaid leave to address domestic violence, harassment, sexual assault, or stalking of the employee or minor dependents.

Reasons for taking leave include the employee’s (or the employee’s dependent’s) need to: seek legal or law enforcement assistance or remedies; secure medical treatment for or time off to recover from injuries; seek counseling from a licensed mental health professional; obtain services from a victim services provider; or relocate or secure an existing home.

Leave is generally unpaid, but the employee may use any accrued unused vacation, comp, or sick leave while on this type of leave.

When seeking this type of leave, the employee should provide as much advance notice as is practicable of the intention to take leave, unless giving advance notice is not feasible. Notice of need to take leave should be provided by submitting a request for leave in writing to the City Administrator as far in advance as possible, indicating the time needed, when the time will be needed, and the reason for the leave. The City of Gearhart will then generally require certification of the need for the leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, healthcare professional, member of the clergy, or victim services provider.

If more leave than originally authorized needs to be taken, the employee should give the City of Gearhart notice as soon as is practicable prior to the end of the authorized leave. When taking leave in an unanticipated or emergency situation, the employee must give oral or written notice as soon as practicable. When leave is unanticipated, this notice may be given by any person on the employee’s behalf.

Finally, employees who are victims of domestic violence, harassment, sexual assault, or stalking may be entitled to a “reasonable safety accommodation” that will allow the employee to continue more safely to work, unless such an accommodation would impose an undue hardship on the City of Gearhart. Please contact the City Administrator immediately with requests for reasonable safety accommodations.

K. MILITARY LEAVE

Employees who wish to serve in the military and/or take military leave should contact the City Administrator for information about their rights before and after such leave. Employees generally are entitled to reinstatement upon completion of military leave, provided the employee returns or applies for reinstatement within the time allowed by law.

Further, eligible employees called for initial active duty, for training, and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, may be entitled to leave with pay for all regular workdays that fall within a period not to exceed 15 calendar days in any federal training year. Weekend drill obligations are not considered “federal active duty” for training under this policy; other requirements apply. Please contact the City Administrator for more information and to make arrangements for this paid leave.

IV. EMPLOYEE BENEFITS

A. HEALTHCARE, DENTAL, VISION, AND OTHER BENEFITS

Employees who meet the definition of “benefit eligible” under both the City of Gearhart policy and that of its health insurance provider are entitled to the benefit options offered by the City of Gearhart. Currently, the City of Gearhart pays for medical, dental, and vision insurance for all of its regular, full-time employees and their immediate families, unless otherwise established by law or benefit plan documents. Part-time, temporary, or seasonal employees are not eligible for health insurance coverage.

The employee, and immediate family (if applicable), are eligible for coverage after the first 30 days of employment. Coverage would take effect on the 1st of the month following the first full month of employment. In all instances, the benefit plan documents and policies govern, and the City of Gearhart makes no guarantee of benefits. The group insurance policy and the summary plan description will be issued to employees and set out the terms and conditions of the medical, dental and vision insurance plans offered by the City of Gearhart. These documents govern all issues relating to employee health insurance. As other employee benefits are offered by the City of Gearhart, employees will be advised and provided with copies of relevant plan documents. Copies are available from the City Treasurer.

The City of Gearhart provides long-term disability, Accidental death and dismemberment (AD&D), and basic life insurance (\$25,000) for eligible employees at no additional cost. Police and fire employees also have statutory life (\$10,000) and Sun Life additional life insurance coverage paid by the City of Gearhart. Employees may voluntarily choose supplemental life, identity protection, accident insurance, hospital indemnity, critical illness coverage, and a 457 pre-tax savings plan. These are employee paid supplemental benefit options.

The foregoing is a general description of employee insurance benefits, and City of Gearhart reserves the right to add to, modify, or remove any and all insurance benefits at any time.

B. EMPLOYEE ASSISTANCE PROGRAM (EAP)

This free, confidential service is provided by Canopy and is available to all employees and dependents covered on a CIS Regence medical plan. The EAP can be used to assist employees and eligible family members with any personal problems, large or small. Each covered employee and eligible family members can receive some personal counseling sessions per year. Sessions can be face to face, over the phone, or online for concerns such as marital conflict, conflict at work, depressions, stress management, family relationships, anxiety, alcohol, or drug abuse, grieving a loss, and career development services.

Canopy also provides educational tools as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, home ownership, and gym membership discounts.

More information regarding this service can be obtained by contacting the City Treasurer, or call toll-free 1-800-433-2320, text 503-850-7721; email info@canopywell.com; or go to my.canopywell.com.

C. WORKERS' COMPENSATION AND SAFETY ON THE JOB

Employees are protected by workers' compensation insurance under Oregon law. This insurance covers employees in case of occupational injury or illness by providing, among other things, medical care, and compensation and temporary or other disability benefits. Employees are expected to work safely and in a safe environment at all times.

Steps to Take if You are Injured on the Job

If an employee is injured on the job, the City of Gearhart wants to know about it immediately and expects to learn about it no later than 24 hours after the injury (report all work-related injuries to the immediate supervisor).

If an employee seeks treatment for a work-related injury and wants to apply for workers' compensation benefits, the employee must do all of the following:

1. Report any work-related injury to the immediate supervisor. Employees must report the injury no later than 24 hours after the injury.
2. Seek medical treatment and follow-up care if required. Any medical provider work restrictions need to be submitted to the employee's supervisor.
3. Promptly complete a written Employee's Claim Form (Form 801), inform the City Administrator, and fill out an Employee Accident Report. Please note that the City of Gearhart will have to fill out Form 801 to the best of its ability if an employee seeks medical treatment and does not return the Form 801 in a timely manner.

Failure to timely follow these steps may negatively affect your ability to receive benefits.

Return to Work

If an employee requires workers' compensation leave, the City of Gearhart will strive to reemploy the employee in the most suitable vacant position available at the conclusion of that leave. However, an employee must first submit documentation from a health care provider who is familiar with the condition certifying the employee's ability to return to work and perform the essential functions of the position.

When returning from a workers' compensation leave, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee would have been laid off had the employee not been on leave, or if the position is eliminated, and no equivalent or comparable positions are available, then the employee may not be entitled to reinstatement. These are only examples, and all reinstatement/reemployment decisions are subject to the terms of any applicable collective bargaining agreement. The City of Gearhart does not discriminate against employees who report or suffer a workplace injury or illness.

Overlap with Other Laws

If, after returning from a workers' compensation leave, it is determined that an employee is unable to perform the essential functions of the position because of a qualifying disability, the employee may be entitled to a reasonable accommodation, as governed by the applicable Oregon laws covering disabilities in the workplace, and the employee should follow the *Disability Accommodation Policy* above.

D. PERS (PUBLIC EMPLOYEES' RETIREMENT SYSTEM BENEFITS)

The City of Gearhart participates in the Public Employees Retirement System (PERS); therefore, your designation as a Tier I, Tier II, or Oregon Public Service Retirement Plan (OPSRP) member will depend on your prior PERS service and PERS rules. An employee's designation and eligibility for participation in PERS or the OPSRP are determined by applicable law. Generally, PERS membership is established after completion of a six (6) month waiting period for employees who work at least 600 hours per year and requires an employee contribution of 6% of gross salary on a pre-tax basis to the Individual Account Program (IAP). The City of Gearhart is required to contribute on all qualified subject employee salaries at the PERS mandated Employer Contribution Rate, which varies by employer. For more information about these PERS, please contact 1-888-320-7377 or visit their website at www.oregon.gov/PERS.

See also "EMPLOYMENT OF PERS RETIREES" policy above.

V. MISCELLANEOUS POLICIES

A. CRIMINAL ARREST/CONVICTION REPORTING, ALCOHOL/DRUG USE, AND TESTING POLICY

Employees are required to report to the City Administrator any arrest *or* conviction within three (3) days of an arrest or a conviction occurring. Failure to report may result in discipline up to and including termination.

Prohibited Conduct

The following conduct is strictly prohibited and will result in disciplinary action up to and including last-chance agreements and/or termination:

1. Possession, sale and/or use of drugs on the City of Gearhart premises, while in City of Gearhart -provided clothes, while on City of Gearhart- or work-related travel, or while on City of Gearhart business (other than employees who possess drugs while they are engaged in law-enforcement work);
2. Failure to notify the City of Gearhart of an arrest or conviction under any criminal drug or alcohol statute within three days of the arrest or conviction;
3. Possession and/or consumption of alcoholic beverages or being under the influence of alcohol during work hours, while in City-provided clothes or on City of Gearhart premises, while operating a City of Gearhart vehicle or equipment (or while operating a personal vehicle in connection with the performance of City of Gearhart business), or while performing job functions other than at the employee's home (other than employees who possess drugs while they are engaged in law-enforcement work); or
4. Being under the influence of drugs while on duty, on City of Gearhart premises, on City of Gearhart work time, while in City-provided clothes, while on City of Gearhart business, or while operating a City of Gearhart vehicle or equipment (or while operating a personal vehicle in connection with the performance of City of Gearhart business).

As used in this policy, "drug" includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington, or any other state's law.

Prescription Drugs and Medical Marijuana

With the exception of medical marijuana, nothing in this rule is intended to prohibit the use of a drug taken under supervision by a licensed health care professional, where its use does not present a safety hazard or otherwise adversely impact an employee's performance or City of Gearhart operations.

An employee who uses prescription or over-the-counter drugs that may impair the employee's ability to safely perform the job, or that may affect the safety or well-being of others, must notify the City Administrator or supervisor of such use immediately before starting or resuming work. The City of Gearhart may reassign the employee using the prescription or over-the-counter drugs to other work or take other appropriate action to accommodate the physical or mental effects of the medication. Failure to report use of prescription or over-the-counter drugs that may impair covered by this rule will subject an employee to disciplinary action, up to and including termination. (Although an employee is not required to provide the City of Gearhart with the name(s) of the prescription medication(s) taken, medical verification of the prescription may be required.)

Employees who use medical marijuana in connection with a disability should discuss with their supervisor other means of accommodating the disability in the workplace, as the City of Gearhart will not agree to allow an employee to use medical marijuana as an accommodation.

See "DISABILITY ACCOMMODATION POLICY" above.

Testing

The City of Gearhart reserves the right to:

1. Subject applicants who are given a conditional offer of employment in a safety-sensitive position to a drug and/or alcohol test, or as required by commercial driving license or other state or federal law;
2. Test employees reasonably suspected of using drugs or alcohol in violation of this policy;
3. Discipline or discharge employees who test positive or otherwise violate this policy; and
4. Test employees when they: (1) cause or contribute to accidents that seriously damage a City of Gearhart vehicle, machinery, equipment, or property; (2) result in an injury to themselves or another employee requiring offsite medical attention; or (3) when City of Gearhart reasonably suspects that the accident or injury may have been caused by the employee's actions while using drugs or alcohol.

The phrase "reasonable suspicion" (or in any variation) used in this policy means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is more likely than not under the influence of controlled substances or alcohol or has used drugs or alcohol in violation of this policy. Circumstances which can constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- A pattern of abnormal or erratic behavior;
- Information provided by a reliable and credible source a work-related accident;
- Direct observation of drug or alcohol use;

- Presence of the physical symptoms of drug or alcohol use (*i.e.*, glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
- Unexplained significant deterioration in individual job performance;
- Unexplained or suspicious absenteeism or tardiness;
- Employee admissions regarding drug or alcohol use;
- Unexplained absences from normal work areas where there is reason to suspect drug or alcohol related activity.

Supervisors shall detail in writing within a reasonable time after observation the specific facts, symptoms or observations that form the basis for their determination that reasonable cause exists to warrant alcohol or controlled substance testing of an employee or a search. This documentation shall be forwarded to the City Administrator. Whenever possible, supervisors should locate a second employee or witness to corroborate their “reasonable suspicion” findings.

The City of Gearhart will pay for testing of employees. No employee shall drive themselves to testing; the City of Gearhart shall arrange and pay for transportation to/from testing. An employee whose initial laboratory screening test for controlled substances yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee for use in the initial screening test. If the second test confirms the initial positive test result, the employee shall be notified of the results in writing by the City Administrator. The letter of notification shall state the particular substance identified by the laboratory tests. The employee may request a third test of the sample within 24 hours of receiving the letter of notification, but such testing will be paid for by the employee.

Search of Property

When reasonable suspicion exists to believe an employee possesses alcohol or a controlled substance on City of Gearhart property or has otherwise violated provisions of this rule regarding possession, sale or use of controlled substances or alcohol, the City of Gearhart may search the employee's possessions located on City of Gearhart property, including but not limited to, clothes, locker, lunchbox, toolbox, and desk. Employees should have no expectation of privacy in any items they bring onto the City of Gearhart property, or in property, equipment or supplies provided by the City of Gearhart to employee.

Employee Refusal to Test/Search

An employee who refuses to consent to a test or a search when there is reasonable cause to suspect that the employee has violated this policy is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action. An employee who refuses to cooperate with any tests required by this policy is also subject to discipline, up to and including termination. This includes, but is not limited to, tampering with, or attempting to tamper with, a specimen sample, using chemicals or other ingredients to mask or otherwise cover up the presence of metabolites, drugs, or alcohol in a specimen, or providing a blood or urine specimen that was produced by anyone or anything other than the employee being tested.

Discipline and Consequences of Prohibited Conduct

An employee who tests positive for drugs or alcohol in accordance with this policy will be subject to discipline up to and including termination.

Drug and Alcohol Treatment

The City of Gearhart recognizes that alcohol and drug use may be a sign of chemical dependency and that employees with alcohol and drug problems can be successfully treated. The City of Gearhart is willing to help such employees obtain appropriate treatment, consistent with the Americans with Disabilities Act and state disability law counterparts.

An employee who believes that the employee has a problem involving the use of alcohol or drugs should ask a supervisor or the City Administrator for assistance. The City of Gearhart will work with an employee to identify all benefits and benefit programs that may be available to help deal with the problem, pursuant to the *Disability Accommodation Policy* above.

Although the City of Gearhart recognizes that alcohol and drug abuse can be successfully treated and is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek assistance *before* drug or alcohol problems lead to disciplinary action. Once a violation of the City of Gearhart policy is discovered, the employee's willingness to seek the City of Gearhart or outside assistance will not "excuse" the violation and generally will have no bearing on the determination of appropriate disciplinary action.

Confidentiality

All information from an employee's drug and alcohol evaluation will be treated as confidential to the extent possible. Disclosure of such information to any other person, agency, within or outside the City of Gearhart is prohibited unless authorization is obtained from the employee or disclosure is required by law or rule or for public safety purposes.

B. CELLULAR DEVICES/RECORDING POLICY

This policy applies to employee use of cell phones, smart phones (including iPhones, "smartphones" and similar devices), tablets and similar devices, all of which are referred to as "cellular devices" in the Cellular Devices Policy.

Cell Phones and Cellular Devices in General

Employees are allowed to bring personal cell phones and cellular devices to work with them. During working hours, however, employees should refrain from using them except in an emergency or during a meal period or rest break.

Employees who use personal or City of Gearhart provided cell phones/cellular devices may not violate the City of Gearhart's policies against harassment and discrimination. Thus, employees who use a personal or City of Gearhart provided cell phone/cellular device to send a text or instant message to another employee (or to a citizen or someone not employed by the City of

Gearhart) that is harassing or otherwise in violation of the City of Gearhart’s no-harassment and no-discrimination policies will be subject to discipline up to and including termination.

Employee Use of City of Gearhart-Provided Cell Phones/Cellular Devices

Cell phones/cellular devices are made available to the City of Gearhart employees on a limited basis to conduct City of Gearhart’s business. Determinations as to which employees receive City of Gearhart provided cell phones will be made on a case-by-case basis; employees are not guaranteed a cell phone or cellular device. In some cases, the City of Gearhart may provide a monthly cellular telephone allowance to employees who regularly make calls on behalf of the City of Gearhart away from the office (see the City Administrator for more information).

Employees who receive a cell phone or cellular device from the City of Gearhart must agree to not use the cell phone/cellular device for personal use except in emergency situations and must abide by all aspects of the Cellular Device Policy. Further, employees who receive a cell phone or cellular device from the City of Gearhart must acknowledge and understand that because the cell phone/cellular device is paid for and provided by the City of Gearhart, or subsidized by the City of Gearhart, any communications (including text messages) received by or sent from the cell phone/cellular device may be subject to inspection and review if the City of Gearhart has reasonable grounds to believe that the employee’s use of the cell phone violates any aspect of the Cellular Device Policy or any other City of Gearhart policy. An employee who refuses to provide City of Gearhart access to the personal cell phone/cellular device in connection with an investigation and after reasonable notice may be subject to discipline, up to and including termination. Employees may not use the City of Gearhart provided cell phones or cellular devices to call 1-900, 1-976 or similar “pay per minute” services. Further, family and friends may not use an employee’s City of Gearhart provided cell phone/cellular device.

Employee Use of Cell Phones/Cellular Devices with Cameras

Cameras of any type, including cell phones or cellular devices with built-in cameras and video photography options, may be used during working hours for work purposes or city business only.

Cell Phones/Cellular Devices and Public Records

City of Gearhart related business conducted on City of Gearhart provided or personal cell phones/cellular devices may be subject to disclosure and production under Oregon’s Public Records laws or in connection with litigation filed against City of Gearhart.

Cell Phone/Cellular Device Use While Driving

The use of a cell phone or cellular device while driving presents a hazard to the driver, other employees, and the public. Subject to a few narrow exceptions for emergency or public safety purposes, Oregon law also prohibits the use of handheld cell phones while driving, even if the driving is for work-related reasons. This policy is meant to ensure the safe operation of the City of Gearhart vehicles and the operation of private vehicles while an employee is on work time. It applies equally to the usage of employee-owned cell phones and phones provided or subsidized by the City of Gearhart.

Employees are prohibited from using handheld cell phones for any purpose while driving on City of Gearhart authorized or City of Gearhart related business. This policy also prohibits employees from using a cell phone or other cellular device to send or receive text or “instant” messages while driving on City of Gearhart business (other than those employees engaged in law enforcement or fire-fighting work). Should an employee need to make a business call while driving, the employee must locate a lawfully designated area to park and make the call, unless the employee uses a hands-free cell phone or cellular device for the call. In either situation, such calls should be kept short and should the circumstances warrant (for example, heavy traffic, bad weather), the employee should locate a lawfully designated area to park to continue or make the call, even if the employee is using a hands-free device. Violation of this policy will subject the employee to discipline, up to and including termination.

Recordings

No recordings of interoffice oral communications or conversations is permitted unless the other person(s) involved have prior notice of the recording. This policy does not apply to law enforcement or fire department or other public safety employees, does not apply to a phone call answering system, and does not apply to a security/surveillance system. Employees are encouraged to be familiar with ORS 165.540, and ask the City Administrator any questions.

C. USE OF CITY OF GEARHART EMAIL AND ELECTRONIC EQUIPMENT, FACILITIES AND SERVICES

City of Gearhart uses multiple types of electronic equipment, facilities, and services for producing documents, research and communication including, but not limited to, computers, software, email, copiers, telephones, voicemail, fax machines, online services, cell phones (including text messaging), the Internet and any new technologies used in the future. This policy governs the use of such City of Gearhart property.

Ownership

All information and communications in any format, stored by any means on or received via City of Gearhart’s electronic equipment, facilities or services is the sole property of City of Gearhart.

Use

All of the City of Gearhart’s electronic equipment, facilities and services are provided and intended for City of Gearhart business purposes only and other communication limited to necessary family communications or soft music. Access to the Internet, websites and other electronic services paid for by the City of Gearhart are to be used for City of Gearhart business only. This means, for example, that employees may not use the City of Gearhart provided Internet, or City of Gearhart electronic equipment, facilities, and services to:

- Display or store any sexually explicit images or documents, or any images or documents that would violate City of Gearhart’s no-harassment, no-discrimination or bullying policies;

- Play games (including social media games) or to use social apps of any kind;
- Engage in any activity that violates the rights of any person or City of Gearhart, and that is protected by copyright, trade secrets, patent, or other intellectual property (or similar laws or regulations);
- Engage in any activity that violates the rights to privacy of protected healthcare information or other City of Gearhart-specific confidential information;
- Engage in any activity that would introduce malicious software purposefully into a workstation or network (e.g., viruses, worms, Trojan horses);
- Download or view streaming video for personal use, which includes, without limitation, YouTube videos, movies, and TV shows. Streaming audio is allowed, provided it does not contain explicit material, adversely affect network speed, or interfere with others' ability to work.

Further, employees may not use the City of Gearhart provided email addresses to create or manage personal accounts (e.g., shopping websites, personal bank accounts, and social media accounts). City of Gearhart email addresses for professional-based social media accounts such as LinkedIn may be allowed with the approval of the employee's supervisor.

Inspection and Monitoring

Employee communications, both business and personal, made using City of Gearhart electronic equipment, facilities, and services are not private. Any data created, received, or transmitted using City of Gearhart equipment, facilities or services are the property of City of Gearhart and usually can be recovered even though deleted by the user.

All information and communications in any format, stored by any means on City of Gearhart's electronic equipment, facilities, or services, are subject to inspection at any time without notice. Personal passwords may be used for purposes of security, but the use of a personal password does not affect City of Gearhart's ownership of the electronic information, electronic equipment, facilities, or services, or the City of Gearhart's right to inspect such information. City of Gearhart reserves the right to access and review electronic files, documents, archived material, messages, email, voicemail, and other such material to monitor the use of all of the City of Gearhart's electronic equipment, facilities and services, including all communications and internet usage and resources visited. The City of Gearhart will override all personal passwords if it becomes necessary to do so for any reason.

Personal Hardware and Software

Employees may not install personal hardware or software on the City of Gearhart's computer systems without approval from the City Administrator. All software installed on the City of Gearhart's computer systems must be licensed. Copying or transferring of City of Gearhart-owned software may be done only with the written authorization of the City Administrator.

Unauthorized Access

Employees are not permitted unauthorized access to the electronic communications of other employees or third parties unless directed to do so by City of Gearhart management. No employee can examine, change, or use another person's files, output or username unless they have explicit authorization from the City Administrator to do so.

Security

Many forms of electronic communication are not secure. Employees who use cell phones, cordless phones, fax communications or email sent over the Internet should be aware that such forms of communication are subject to interception and these methods of communicating should not be used for privileged, confidential, or sensitive information unless appropriate encryption measures are implemented.

Inappropriate Web Sites

City of Gearhart's electronic equipment, facilities or services must not be used to visit Internet sites that contain obscene, hateful, or other objectionable materials, or that would otherwise violate City of Gearhart's policies on harassment and discrimination.

D. SOCIAL MEDIA

For purposes of this policy, "social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal or commercial website, social networking website, web bulletin board or a chat room, whether or not associated or affiliated with City of Gearhart, as well as any other form of electronic communication.

Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of co-workers, or otherwise adversely affects our citizens or people who work on behalf of City of Gearhart or City of Gearhart's legitimate business interests may result in disciplinary action up to and including termination.

Prohibited Postings

Employees will be subject to discipline, up to and including termination, if they create and post any text, images or other media that violate any City of Gearhart policies, including City of Gearhart's non-harassment, non-discrimination, workplace violence and other policies. Similarly, postings that include threats of violence, that are physically threatening or intimidating, bullying, or harassing, will not be tolerated and may subject an employee to discipline, up to and including termination.

Do not create a link from your blog, website, or other social networking site to a City of Gearhart -owned or -maintained website. Express only your personal opinions. Never represent yourself as a spokesperson for City of Gearhart unless you are authorized by the City Administrator to do so. If City of Gearhart is a subject of the content you are creating, be clear and open about the fact that you are a City of Gearhart employee and make it clear that your views do not represent those of City of Gearhart or its employees or elected officials.

Encouraged Conduct

Always be fair and courteous to co-workers, the citizens we serve, City of Gearhart's employees and elected officials, and suppliers or other third parties who do business with City of Gearhart. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers, or by asking a supervisor for assistance, than by posting complaints to a social media outlet. If you decide to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage citizens, co-workers, City of Gearhart employees or elected officials, that might constitute harassment or bullying, and/or that violate City of Gearhart policies. Examples of such conduct might include offensive posts that a reasonable person would perceive as calculated to intentionally harm an individual's personal or professional reputation, posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law or City of Gearhart policy.

Maintain the confidentiality of City of Gearhart's confidential information. Do not post internal reports, policies, procedures or other internal, City of Gearhart -related confidential communications or information.

See "CONFIDENTIAL CITY OF GEARHART INFORMATION" policy below.

Nothing in this policy or in any part of this Handbook is intended to prevent an employee from exercising the right to make a complaint of discrimination or other workplace misconduct, engage in lawful collective activity, or to express an opinion on a matter of public concern that does not unduly disrupt City of Gearhart operations. Employees are free to express themselves as private citizens on social media sites, but an employee's exercise of expression is balanced against the City of Gearhart's interest in the effective and efficient fulfillment of its responsibilities to the public.

Request for Employee Social Media Passwords

City of Gearhart's supervisors are prohibited by law from requiring or requesting an employee or an applicant for employment to disclose or to provide access through the employee's or applicant's username and password, password or other means of authentication that provides access to a personal social media account. This includes, without limitation, a username and password that would otherwise allow a supervisor to access a private email account not provided by City of Gearhart.

Nothing in this policy prohibits City of Gearhart from requiring an employee to produce content from any social media or internet account in connection with a City of Gearhart -sponsored

investigation into potential misconduct, unlawful or unethical behavior, or policy or rule violations.

E. CONFIDENTIAL CITY OF GEARHART INFORMATION

Employees must not access, use, or disclose sensitive or confidential information or data except in accordance with City of Gearhart policies, practices and procedures, and as authorized by state or federal laws or regulations. Employees with access to confidential information, including but not limited to customer or employee financial, medical, or personal information (including, without limitation, Social Security numbers), are responsible for the safekeeping and handling of that information to prevent unauthorized disclosure. Employees who access, use, or disclose confidential information contrary to Oregon or federal laws or for personal use or financial gain may be subject to civil or criminal penalties under those laws, in addition to appropriate disciplinary action for violating this policy.

No records or information including (without limitation) protected medical data, documents, files, records, computer files or similar materials (except in the ordinary course of performing duties on behalf of City of Gearhart) may be removed from City premises without permission from the City Administrator. Likewise, any materials developed by City of Gearhart's employees in the performance of their jobs is the property of City of Gearhart and may not be used for personal or financial gain. Additionally, the contents of records or information otherwise obtained in regard to the City of Gearhart's business may not be disclosed to anyone, except where required for a business purpose or when required by law.

F. ETHICS

At City of Gearhart, we believe in treating people with respect and adhering to ethical and fair business practices. We expect employees to avoid situations that may compromise their reputation or integrity, or that might cause their personal interests to conflict with the interests of the City of Gearhart or the City of Gearhart's citizens.

We at the City of Gearhart are public employees, and as such, are also subject to the State of Oregon's ethics laws. In some cases, these laws provide additional limitations on employees, such as prohibitions on gifts and strict definitions of conflict of interest. If you are coming to the City of Gearhart from work in the private sector, you may find that some activities that are common business practices in the private sector are prohibited in the public sector. Information on these laws is available at the Oregon Government Ethics Commission website: <http://www.oregon.gov/OGEC>. Generally, personal gain or benefit from public service activities is prohibited.

If you have questions about whether an activity meets the City of Gearhart's or Oregon's ethical standards, please talk with the City Administrator. Employees who violate the Ethics Policy, or who violate Oregon ethics laws, may be subject to disciplinary action up to and including termination.

G. OPEN-DOOR POLICY

City of Gearhart's Open-Door Policy is based on our belief that open, honest communication between supervisors and employees should be a common business practice. City of Gearhart's supervisors are responsible for creating a work environment where employee input is welcomed, and where issues are identified early and shared without the fear of retaliation (when the employee provides the input in good faith). If you have a complaint, suggestion, or question about your job, working conditions, or the treatment you are receiving from anyone in City of Gearhart, please raise them first with your immediate supervisor. If you are not satisfied with the response from your immediate supervisor, or if your issue involves your immediate supervisor, request to have the facts/situation reviewed by the City Administrator.

H. OUTSIDE EMPLOYMENT

Generally, employees may obtain employment with an employer other than City of Gearhart or engage in private income-producing activity of their own so long as that activity is not otherwise prohibited by these rules. Employees are responsible for assuring that their outside employment does not conflict with these rules.

An employee is prohibited from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the employee's official position or action. Employees may not accept outside employment that involves:

- The use of City of Gearhart time (including the employee's work time), City of Gearhart facilities, equipment and supplies, or the prestige or influence of the employee's position with City of Gearhart. In other words, the employee may not engage in private business interests or other employment activities on the City of Gearhart's time or using the City of Gearhart's property or influence of the employee's position with the City of Gearhart, and employees may not solicit work for their outside employment or business endeavor during their work for City of Gearhart;
- The performance of an act that may later be subject to control, inspection, review, or audit by the City department for whom the employee works (or by a State agency), such as civil engineering services that may require City approval;
- Receipt of money or anything of value for performance of duties that the employee is required to perform for the City of Gearhart;
- Outside employment will not excuse employee tardiness or absenteeism from work at the City of Gearhart;
- No outside employment or business endeavor may subject City of Gearhart to any liability

The City of Gearhart requires employees to report outside employment to the City Administrator before the outside employment begins. The City of Gearhart reserves its right to disallow the

outside employment or business endeavor if the employee's engagement in the same may subject the City of Gearhart to liability, embarrassment or disrepute. Thereafter, an employee must provide an update to the City Administrator on an annual basis, or sooner if any changes in outside employment occurs. Employees who accept outside employment in violation of this policy may be subject to discipline, up to and including termination.

City employees are encouraged to review the Guidelines for Outside Employment of Public Officials found in the Guide for Public Officials published by the Oregon Government Ethics Commission.

I. POLITICAL ACTIVITY

Employees may engage in political activity except to the extent prohibited by Oregon law when on the job during working hours. This means that employees cannot:

- Be required to give money or services to aid any political committee or any political campaign;
- Solicit money or services (including signatures) to aid or oppose any political committee, nomination or election of a candidate, ballot measure or referendum, or political campaign while on the job during working hours (this is not intended to restrict the right of City of Gearhart employees to express their personal political views);
- Be disciplined or rewarded in any manner for either giving or withholding money or services for any political committee or campaign.

J. BAD WEATHER/EMERGENCY CLOSING

Except for regularly scheduled holidays identified by the City of Gearhart (reference "Holidays" section above), City of Gearhart is open for business on Mondays through Fridays during normal business hours. If there are circumstances beyond our control, such as inclement weather, a national crisis, or other emergencies that make one or more of our office locations inaccessible for all or part of a regularly scheduled workday, the City Administrator (or designee) will decide whether to and to what extent the City of Gearhart will close. Information will be sent by phone, text, email, or radio.

In the event of extreme bad weather, we recognize that each employee's ability to safely reach work may be different. If you cannot safely report to work in such circumstances, you should contact your supervisor. If staff cannot reach the office and are able to serve the City of Gearhart from home, you should do so subject to approval by your supervisor. Safety and a trustworthy approach are your guides. Employees may use accrued vacation or comp time on bad weather days or make it an unpaid day for those who have no accrued leave.

K. DRIVING WHILE ON BUSINESS

Employees using a private vehicle to conduct City of Gearhart’s business must possess a valid driver’s license and must carry auto liability insurance. Employees who use their own vehicles for authorized City of Gearhart business use should make any necessary arrangements with their insurance carriers.

The City of Gearhart may verify the validity of an employee’s driver’s license and/or driving record at the time of hire and at any point during your employment.

While on City of Gearhart business, drivers are expected to make every reasonable effort to operate their vehicle safely, with due regard for potential hazards, weather, and road conditions. Drivers are to obey all traffic laws, posted signs and signals, and requirements applicable to the vehicle being operated. Seatbelts are to be used in all vehicles while on business. Drivers are to ensure that the use of prescribed or over the counter drugs do not interfere with their ability to drive while on business; operating a vehicle under the influence of alcohol or controlled substances is prohibited. Employees are responsible for notifying their supervisor of any subsequent restrictions, limitations, or other change in their driving status no more than 72 hours after the change or new restrictions/limitations.

See “CELL PHONE USE WHILE DRIVING” policy above.

Employees who receive a ticket or citation while driving a City of Gearhart-owned vehicle or while on City of Gearhart business will be responsible for paying the fine (if any) associated with the ticket or citation and may face discipline up to and including termination. When driving City vehicles, the City requires notification of any violation that results in suspension of driving duties.

L. WORKPLACE VIOLENCE

The City of Gearhart recognizes the importance of a safe workplace for employees, customers, vendors, contractors, and the public. A work environment that is safe and comfortable enhances employee satisfaction as well as productivity. Therefore, threats and acts of violence made by an employee against another employee, volunteer, elected official, or member of the public with respect to that person’s life, health, well-being, family, or property will be dealt with in a zero-tolerance manner by City of Gearhart.

All employees have an obligation to report any incidents that pose a real or potential risk of harm to employees or others associated with City of Gearhart, or that threaten the safety, security, or financial interests of City of Gearhart. Employees are also strongly encouraged to report threats or acts of violence by non-employees, such as vendors or citizens, against any employee, volunteer, or elected official. Employees should make such reports directly to the City Administrator.

The City of Gearhart also may conduct an investigation of a current employee where the employee's behavior raises concern about work performance, reliability, honesty, or potentially threatens the safety of co-workers or others.

See “WORKPLACE INSPECTIONS” policy below.

M. WORKPLACE INSPECTIONS – NO RIGHT TO PRIVACY OR CONFIDENTIALITY

This policy applies to inspections and investigations conducted by City of Gearhart pursuant to policy or law unless otherwise modified by a different policy in this handbook.

An employee investigation may include, but is not limited to, investigation of criminal records; it may also include a search of desks, work areas, file cabinets, voicemail systems and computer systems. *Employees are strongly discouraged from storing personal items in the desks, lockers, work areas, file cabinets and other office equipment or furniture, as well as voicemail and computer systems assigned to them by the City of Gearhart; these areas are not private.*

All information related to reports generated from inspections and investigations, including the name of the reporting employee(s), will be kept as confidential as possible under the circumstances.

N. SMOKE-FREE AND VAPE-FREE WORKPLACE

The City of Gearhart provides a smoke-free, vape-free, tobacco-free environment for all employees and visitors. For purposes of this policy, “tobacco” includes the smoking of any tobacco-based product, smoking in any form (including, without limitation, cigars, vape pens, and e-cigarettes), and the use of oral tobacco products or “chew/spit” tobacco. Marijuana is also prohibited under this policy. This policy applies to employees, volunteers, and any visitors to City of Gearhart property, vehicles, or facilities/buildings.

City of Gearhart buildings and vehicles are smoke-, tobacco- and marijuana-free areas. Tobacco/marijuana use is prohibited during working hours. Further, City of Gearhart prohibits tobacco/marijuana use in or around City of Gearhart vehicles and equipment or machinery.

If anyone wishes to smoke or vape, the person must do so outside of City of Gearhart’s facilities/buildings, only in designated smoking areas, and out of visitor view. Smoking or vaping is not allowed near building entrances; Oregon law prohibits smoking within 10 feet of building entrances and other openings, including second-story windows. The City of Gearhart has established employee smoking areas that a supervisor can identify.

VI. TERMINATION OF EMPLOYMENT

A. WORKPLACE RULES AND PROHIBITED CONDUCT

Any violation of the rules or prohibited conduct in this policy may result in discipline, up to and including termination. This list of prohibited conduct is illustrative only; other types of conduct injurious to security, personal safety, employee welfare and City of Gearhart’s operations, some of which are described elsewhere in this handbook, may also be grounds for discipline, up to and including termination.

- Falsification of employment or other City of Gearhart records;

- Recording of work time of another employee or allowing any other employee to record your work time or allowing falsification of any time sheets (your own or another employee's);
- Theft or the deliberate or careless damage or destruction of any City of Gearhart property, or the property of any other employee, citizen, vendor or third party;
- Unauthorized use of City of Gearhart equipment, materials, or facilities;
- Provoking a fight or fighting during work hours or on City of Gearhart property;
- Carrying firearms or any other dangerous weapon on City of Gearhart premises at any time (exception: police department officers);
- Engaging in criminal conduct while at work;
- Causing, creating, or participating in a significant or substantial disruption of work during working hours on City of Gearhart property;
- Insubordination, including but not limited to failure or refusal to obey the orders or instructions of a supervisor or member of management, or the use of abusive or threatening language toward another City of Gearhart employee, customer, or vendor;
- Failure to notify a supervisor when unable to report to work, or when leaving work during normal working hours without permission from a supervisor to do so;
- Failure to observe work schedules, including rest breaks and meal periods – you are expected to be at work on time, remain until your workday ends, and perform the work assigned to or requested of you;
- Sleeping or malingering on the job;
- Excessive personal telephone calls during working hours;
- Unprofessional appearance during normal business hours;
- Failing to attend scheduled work sessions and related activities at conferences, workshops, or educational events that are paid for by the City of Gearhart;
- Misrepresentation of City of Gearhart policies, practices, procedures, or your status or authority to enter into agreements on behalf of the City of Gearhart;
- Employees may not use the City of Gearhart's name, logo, likeness, facilities, assets, or other resources of the City of Gearhart for personal gain or private interests;
- Violations of the Ethics Policy or Oregon's Ethics laws;

- Violation of any safety, health, security, or City of Gearhart policy, rule, or procedure;
- Employees are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are set by City of Gearhart or outside regulatory or legislative bodies;
- Failing to timely pay water/tax accounts with City of Gearhart on time, and/or whose City of Gearhart -provided services are disconnected, which includes, without limitation, situations where the employee writes a check to City of Gearhart that is refused for payment due to non-sufficient funds;
- Harassment or discrimination or bullying that violates City of Gearhart policy;
- Unprofessional communications or conduct towards co-workers or the public, such as screaming/yelling, improper hand gestures (“flipping a person off”), or spreading false gossip or rumors that negatively impacts the workplace.

This statement of prohibited conduct does not alter City of Gearhart’s policy of at-will employment. Except for employees subject to an agreement or contract of employment, the City of Gearhart remains free to terminate the employment relationship at any time, with or without cause or notice. **Nothing in this Handbook prohibits any employee from exercising their rights guaranteed by the National Labor Relations Act Sections 7 and 8(a).**

Corrective Action/Discipline Policy

Employees are expected to always perform work to the best of their abilities. There will be occasions, however, where employees perform at an unsatisfactory level, violate a policy or law, or commit an act that is inappropriate. When performance or conduct does not meet City of Gearhart standards, City of Gearhart will determine whether it will terminate the employee’s employment or provide the employee a reasonable opportunity to correct the deficiency through progressive discipline (such as, in no particular order, verbal warnings, written warnings, suspensions without pay, and demotions). The corrective action process will not always commence with a verbal counseling or include a sequence or steps. Some acts, particularly those that are intentional or serious, warrant more severe action (including termination) on the first or subsequent offense. Progressive discipline is not guaranteed to any employee.

In lieu of terminating the employment of an employee for serious violations of City of Gearhart policies, procedures, and rules and for other inappropriate behavior or conduct, City of Gearhart may choose to provide the employee a final opportunity to continue employment in the form of a last-chance agreement. The City of Gearhart may also choose to send the employee to training or an education opportunity.

In all cases, the City of Gearhart will determine the nature and extent of any discipline based upon the circumstances of each individual case and, where applicable, any employment agreement provisions. City of Gearhart may proceed directly to a written warning, demotion, last chance agreement, or termination for misconduct or performance deficiency, without any prior

disciplinary steps, when City of Gearhart deems such action appropriate. City of Gearhart retains the right to terminate any employee's employment at any time and for any reason, with or without advance notice or other prior disciplinary action (other than those employees who are subject to an employment agreement or contract of employment).

B. RETIREMENT OR RESIGNATION FROM EMPLOYMENT

If an employee chooses to resign or retire, it is requested that an employee give City of Gearhart as much notice as possible — preferably a minimum of two weeks. When giving two-weeks' notice, vacation, comp, or sick days should not be used in lieu of notice. If an employee does not give two weeks' notice of intent to leave City of Gearhart, the employee may not be eligible for re-employment at a later date.

Employees who miss three (3) or more consecutive work days without contacting their immediate supervisor are typically considered to have resigned their employment.

If the employee's decision to resign is based on a situation that could be corrected, the employee is encouraged to discuss it with the City Administrator before making a final decision.

Employees must return all City of Gearhart property, including phones, computers, identification cards, credit cards, keys, and manuals, to the City Administrator on or before their last day of work.

C. REFERENCES

All requests for references or recommendations must be directed to the City Administrator. No supervisor or employee is authorized to provide references for current or former employees. Supervisors are expressly prohibited from providing LinkedIn "recommendations" or using a website on the internet to discuss a current or former employee's performance or termination of employment.

By policy, City of Gearhart discloses only the dates of employment and position(s) held of former employees. Former employees who authorize additional disclosures must make a request to do so in writing.

EMPLOYEE ACKNOWLEDGMENT

Acknowledgment of Receipt of Personnel Policies

I acknowledge that I have received and have completely read a copy of City of Gearhart’s current Employee Handbook.

I understand that City of Gearhart has adopted the City of Gearhart Employee Handbook only as a general guide about policies, work rules and the work environment, and that they are subject to change with 30 days prior notice in City of Gearhart’s sole discretion. I acknowledge that the City of Gearhart’s Employee Handbook is not an employment contract and is not intended to give me any express or implied right to continued employment or to any other term or condition of employment.

I understand that either City of Gearhart or I may terminate my employment relationship at any time, for any lawful reason, with or without cause, and with or without notice. Other than promises that may be found in an employment agreement or employment contract (if any exists), I acknowledge that no promises have been made to me that are inconsistent with this “at will” statement.

I have reviewed or will review the City of Gearhart’s policies regarding equal employment opportunity and that the City of Gearhart aims to provide a workplace free of harassment and discrimination. I will bring any questions or concerns I have regarding equal employment opportunities, discrimination, retaliation, or harassment to, the City Administrator, or any trusted supervisor. I understand that nothing in this Handbook prohibits me from exercising their rights guaranteed by the National Labor Relations Act Sections 7 and 8(a).

During my employment with the City of Gearhart, I understand that it is my responsibility to remain informed about the policies as revisions, updates and new policies as issued, and to ask questions about any interpretation of any of the policies.

I have read this acknowledgment carefully before signing.

Employee Signature

Date

Print Employee Name

*The original of this document will be kept in the Employee’s personnel file.
A copy will be provided to the Employee upon request.*

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