

Introduced by Treece

First Reading 9-4-18

Second Reading 9-17-18

Ordinance No. 023642

Council Bill No. B 214-18

AN ORDINANCE

amending Chapter 19 of the City Code as it relates to personnel policies, procedures, rules and regulations; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 19 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 19-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated in this section:

Pay status. An employee is in pay status when the employee is on duty or on an authorized paid leave ~~other than~~ and not on leave without pay of absence.

Probationary period. The period of time (either six (6), twelve (12) or eighteen (18) months as established in section 19-192) following initial placement in a city position, and regarded as an integral part of the examination process and which shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to the position, and for replacing any employee whose performance does not meet the required work standards. An employee who has not successfully completed a probationary period and/or extension thereof shall not have access to grievance or appeal privileges.

Protected category. Race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity or expression, receipt of governmental assistance, alienage or citizenship status, status as a victim of sexual or domestic violence, or order of protection status as these terms are defined in section 12-32 of this code, and

any other protected category recognized under federal, state or local law. For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions. For purposes of Chapter 19, protected category also includes creed, age, and political affiliation.

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Unclassified service. The following offices and positions are in the unclassified service: All department heads; all assistant department heads; deputy city manager; assistant city manager; assistant to city manager; deputy city counselor; prosecutor; assistant city counselor; internal auditor; sustainability manager; civic relations officer; deputy fire chief; assistant fire chief; deputy police chief; assistant police chief; deputy city clerk; city management fellowship; trust administrator; PMO manager, controller; assistant controller; treasurer; budget officer; purchasing agent; risk manager; accounting supervisor; budget supervisor; senior accountant; information technology manager; geospatial services manager; cultural affairs manager; engineering and operations manager; solid waste district administrator; administrative services manager; municipal court administrator; deputy court administrator; police lieutenant, with the exception of the seven (7) police lieutenants who occupy the position in such classification on August 30, 2016 who shall be grandfathered in classified service. Any grandfathered lieutenant may irrevocably elect to terminate grandfathered status and become unclassified by written notice to the human resources director.

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Sec. 19-25. Employee relations.

(a) This section applies to employee relations with classified public safety employees only. For purposes of this section, "public safety employees" means persons trained or authorized by law or rule to render emergency medical assistance or treatment, including, but not limited to, firefighters, ambulance attendants, attendant drivers, emergency medical technicians, emergency medical technician paramedics, dispatchers, registered nurses and physicians, and persons who are vested with the power of arrest for criminal code violations including, but not limited to police officers.

(b) The city manager shall have the authority to recommend to the city council (following certified elections or other assurances of interest deemed appropriate by the city manager and not inconsistent with state law-legislation) recognition of appropriate representative units of employees with a mutually acceptable community of interest for the purpose of meeting, conferring and discussing salaries and other conditions of employment which are mutually agreed upon as proper subjects for such discussions.

(b-c) The city manager shall designate representatives of the city to meet and confer with employee group representatives. City management representatives shall request to meet and confer with employee group representatives on proposed ordinance

modifications to chapter 19 or the negotiation of collective bargaining agreements for the purpose of discussing proposals before a public vote of the city council.

(e-d) The city council, as a council or as individuals, shall not, in any manner, engage in any form of collective bargaining with employees, employee groups, or employee representatives; and the city council shall issue instructions on labor relations matters and working agreement provisions only to the city manager, and the city manager shall keep the council informed of all developments and potential impacts in a timely manner.

(d-e) The following timetable is established as a guideline for the meet-and-confer process. It is not intended to limit the right of employee groups to present proposals to the city relative to salaries and other conditions of employment. Neither is it intended to establish absolute deadlines for subsections (1) through (3). Subsections (4), (5) and (6) must be requested timely and after completion of the preceding section. Untimely requests made under subsections (4), (5) or (6) shall be scheduled the following year in the appropriate month unless both employee representatives and management agree otherwise.

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Sec. 19-25.1. Employee relations – employees other than public safety employees.

(a) This section applies to employee relations with all classified city employees except “public safety employees” as defined in section 19-25(a).

(b) The city manager shall have the authority to recommend to the city council (following certified elections held in accordance with state law or other assurances of interest deemed appropriate by the city manager and consistent with state law) recognition of appropriate representative units of employees with a mutually acceptable community of interest for the purpose of meeting, conferring and discussing salaries and other conditions of employment which are mutually agreed upon as proper subjects for such discussions.

(c) The city manager shall designate representatives of the city to meet and confer with employee group representatives. City management representatives shall request to meet and confer with employee group representatives on proposed ordinance modifications to chapter 19 or the negotiation of collective bargaining agreements for the purpose of discussing proposals before a public vote of the city council.

(d) The city council, as a council or as individuals, shall not, in any manner, engage in any form of collective bargaining with employees, employee groups, or employee representatives; and the city council shall issue instructions on labor relations matters and working agreement provisions only to the city manager, and the city manager shall keep the council informed of all developments and potential impacts in a timely manner.

(e) The following timetable is established as a guideline for the meet-and-confer process. It is not intended to establish absolute deadlines for subsections (1) through (3). Subsections (4), (5) and (6) must be requested timely and after completion of the preceding section. Untimely requests made under subsections (4), (5) or (6) shall be scheduled the following year in the appropriate month unless both employee representatives and management agree otherwise.

- (1) Any employee group that wants to participate in the meet-and-confer process regarding the next fiscal year must have an existing certification that will be in effect on January 1st of the current fiscal year and through the remainder of the current fiscal year.
- (2) If the labor organization is required by state law to be certified or recertified in the current fiscal year, the employee group must be certified or recertified no later than January 1st of the current fiscal year to participate in the meet-and-confer process for the next fiscal year. The city management representatives and the representatives of the employee group shall meet and begin the meet-and-confer process within eight weeks of such certification or recertification, as required by 105.580.1 RSMo, and all other discussions beyond the initial meeting shall be held in accordance with this section. If certification occurs after January 1st of the current fiscal year, the initial meeting shall initiate the discussions to be completed in the next fiscal year.
- (3) *January.* Representatives of the various employee groups may prepare written summaries of their goals and objectives for the meet-and-confer process. If an employee group desires to make a presentation to the city council related to goals and objectives for the meet and confer process, the summaries shall be submitted to the city management representatives at least ten (10) days prior to the first regular city council meeting in January. At a work session scheduled prior to a regular city council meeting in January, the various employee groups shall be given the opportunity to make oral presentations to the council. The city council shall establish policy guidelines to be followed by the city's representatives during the meet and confer process.
- (4) *February.* Representatives of the various employee groups and city management representatives shall prepare written proposals for revisions to ordinances or existing collective bargaining agreements. Proposed changes shall be provided to the other party by the first day of February each year, or, for a multiyear collective bargaining agreement, the first day of February in the year the collective bargaining agreement expires.
- (5) *February and March.* Discussion sessions for non-economic issues shall proceed, with a goal of concluding discussions on non-economic issues by March 31st.

- (6) April—June. Discussion sessions for economic issues and any remaining non-economic issues shall proceed. All discussions shall conclude for the year on or before June 21st. After April 1 and before May 1, any employee group dissatisfied with the progress of the meet-and-confer sessions may present their views directly to the city council at a work session meeting. The council shall meet at least once with the employee group requesting the opportunity of presenting its views directly to the city council.
- (7) June. On or before June 1, the city's representatives or any employee group dissatisfied with the progress of the meet-and-confer sessions may request the services of a mediator from the federal mediation and conciliation service or any other mediator mutually agreed upon by the employee group and the city's representative. The cost of any such mediation shall be borne equally by the employee group and the city. If the mediator concludes that the parties have negotiated to impasse, either party may ask that the mediator render a non-binding opinion for a proposed resolution of the issues still in dispute. The mediator has the authority to render such an opinion if the negotiations are at an impasse, the requesting party has negotiated in good faith and the mediator believes the rendering of an opinion may aid in the resolution of the dispute. The decision of whether to render an opinion is within the unreviewable discretion of the mediator, who is not required to provide an opinion. If rendered, the opinion must provide the recommended outcome and mediator's rationale for the recommended outcome. The mediation will be confidential, and before proceeding with mediation, both parties must agree in writing that any information produced in the mediation, other than the terms of an agreement but including the mediator's recommendation and rationale, will not be used for any purpose outside the mediation, including subsequent litigation or proceedings relating to the labor negotiations.
- (f) Any collective bargaining agreement reached in the meet-and-confer process shall contain all terms required by 105.585 RSMo.
- (g) Prior to any tentative agreement being presented to the members of an employee group for ratification, such tentative agreement shall be discussed in detail in a public meeting. Any such tentative agreement shall be published on the city's website at least five business days prior to the public meeting. During such public meeting, the public shall be permitted to provide comment on the tentative agreement.
- (h) Before any proposed agreement or memorandum of understanding is presented to a city council, the employee group, as a condition of its presentation, shall establish that it has been ratified by a majority of its members.
- (i) The city council may approve the entire agreement or any part thereof. If the city council rejects any portion of the agreement, the city council may return any rejected

portion of the agreement to the city management representatives and the employee bargaining group for further bargaining, adopt a replacement provision of its own design, or state that no provision covering the topic in question shall be adopted. Any agreement reached between the city management representatives and the employee bargaining group shall not be binding on the public body or labor organization until the completion of all bargaining under this section, the ratification of agreement by labor group employees, approval by the city council and execution of the agreement by representatives of the city and the labor group who have authority to legally bind their respective organization.

(j) The term of any agreement, provision of an agreement, or extension of an agreement entered into after August 28, 2018, shall not exceed a period of three (3) years. Any modification, extension, renewal, or change whatsoever to a labor agreement in effect as of August 28, 2018, shall be considered a new labor agreement for purposes of this section.

(k) In the event of the decertification of a labor organization as the exclusive bargaining representative of the public employees in any bargaining unit or failure to recertify a labor organization, all terms and conditions of employment existing at the time of decertification or failure to recertify may be changed in accordance with applicable city process.

(l) No employee shall be compensated for time spent participating in the meet-and-confer process or preparing for the meet-and-confer process on behalf of a labor organization, except to the extent the employee uses leave as provided by Chapter 19, Article V of this code or as allowed by state law.

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Sec. 19-95. ~~Mutual aid emergency pay and restoration of services.~~

(a) *Mutual aid emergency pay.*

(1) Whenever the city manager either requests the emergency assistance of others under a mutual aid agreement or authorizes city employees to provide emergency assistance to others under a mutual aid agreement, overtime eligible city utility employees working in response to the emergency shall be paid mutual aid emergency pay as described in subsection (a)(2). The city manager shall determine when the period for receiving mutual aid emergency pay begins and when it ends.

(2) For every twenty-four-hour period during which an overtime eligible city utility employee works in response to the emergency, the employee shall, at minimum, be paid at the employee's overtime rate for sixteen (16) hours and at the employee's regular rate of pay for eight (8) hours; in the event the entity receiving aid has prevailing wage obligations that require reimbursement for rates of pay that exceed those provided in this section,

the city manager may accept reimbursement at the higher rate and pay employees working in response to the emergency at the rate that is reimbursed.

~~(b) Restoration of services.~~

~~(1) For the purpose of this section, "critical public infrastructure" shall be defined as roads, water lines, sewer lines, electrical substations, electrical transmission and distribution overhead and underground lines up to and including the customer's meter and telecommunications.~~

~~(2) Nonexempt city employees shall be paid at a rate of one and a half (1½) times base rate when called in or requested to stay at work outside of regularly scheduled work hours for the purpose of repairing or clearing critical public infrastructure to restore a public service, or to remove from service critical public infrastructure to protect life or property, or an emergency declared by the city manager. This section shall only apply when the interruption of the public service is caused by a failure or obstruction of critical public infrastructure, or to protect life or property in immediate danger, or an emergency declared by the city manager. The extra premium compensation paid for the excess hours is excludable from the regular rate and shall be credited toward overtime payments.~~

Sec. 19-96. Overtime.

(a) Positions eligible for overtime pay shall be designated on the classification plan and the pay plan.

(b) Work periods for city employees are defined as follows:

(1) Fire department shift employees shall work a twenty-seven-day work period (fifty-six (56) hours per week average) and shall be paid at the overtime rate (or compensatory time in accordance with FLSA standards) for all hours in pay status worked in excess of two hundred four (204) hours during the work period.

(2) Police officers and sergeants shall work a fourteen-day work period and shall be paid at the overtime rate (or compensatory time in accordance with FLSA standards) for all hours in pay status worked in excess of eighty (80) hours during the work period.

(3) Airport fire/safety officers shall work a fourteen-day work period and shall be paid at the overtime rate (or compensatory time in accordance with FLSA standards) for all hours in pay status worked in excess of eighty (80) hours during the work period.

(4) All other overtime eligible employees shall work a seven-day work period beginning at seven on Sunday morning and shall be paid at the overtime rate (or compensatory time in accordance with FLSA standards) for all hours in pay status ~~worked~~ in excess of forty (40) hours during the work period; except, however, the city manager may establish work periods beginning on a different day and time.

(c) Overtime work shall be kept to a minimum, and in order to be considered as overtime, the work and the time of doing it must have been assigned by the employee's department head or duly authorized supervisor. Supervisors may limit or alter the scheduled hours of overtime eligible employees in order to avoid or limit the accrual of overtime by overtime eligible employees.

~~(d) Overtime pay shall be based on hours worked and not on time in pay status, except that holiday hours shall be included as hours worked for purposes of overtime eligibility.~~

~~(e-d)~~ The positions of those city employees and officials excepted from the payment of overtime:

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~~(f-e)~~ Employees in positions not eligible for overtime pay:

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~~(g-f)~~ The city does not make deductions from the salaries of overtime exempt employees because of variations in the quality or quantity of work performed. Rather, unsatisfactory quantities or quality of work are addressed through regular performance management methods including the evaluation and discipline processes. The city also does not make deductions from overtime exempt employees' salaries for any of the following:

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~~(h-g)~~ Any overtime exempt employee whose salary has been subject to improper deductions should promptly report the problem to the director. Any improper deductions will be reimbursed, and there will be no retaliation against any employee.

~~(i-h)~~ Overtime assignments will be distributed as equally as practicable among members of each overtime equalization unit. Such overtime equalization units shall consist of the qualified employees in a job classification or employee work group. No employee will be given an overtime assignment unless he is qualified to perform it. The department head or supervisor shall maintain a roster showing the overtime hours worked by employees in each overtime equalization unit, or work group. If an employee refuses an overtime

assignment he will be credited, for purposes of overtime equalization, with the number of hours refused.

(j-i) Overtime eligible police officers shall be paid at the overtime rate for court appearances and emergency call-outs that occur during scheduled time off only if they are entitled to overtime pay under subsection (b).

Sec. 19-110. General benefits.

(a) *Employee health care plan.* The city shall pay into the employee benefit fund ~~four hundred eighty dollars and twenty nine cents (\$480.29)~~ four hundred ninety-six dollars and fourteen cents (\$496.14) per month for the cost of medical employee health care plan coverage, and thirty dollars and twenty cents (\$30.20) per month for the cost of employee dental plan coverage, for each eligible permanent employee and each eligible employee otherwise required to be covered by the city who participates in the plan. The city shall pay a portion of dependent care coverage for those eligible permanent employees who elect to purchase dependent health plan coverage under the city plan, subject to the following maximum amounts:

Employee + Spouse	\$576.73 <u>592.58</u>
Employee + Child(ren).....	544.24 <u>560.09</u>
Employee + Family	712.85 <u>728.70</u>

These payments by the city shall begin when the employee becomes an eligible employee under the health care plan and end at the date of the employee's termination of employment with the city. Employees choosing not to participate in the health care plan or dental plan or both shall not be entitled to receive the amount the city would have contributed toward the cost of such employees' health care plan and dental plan coverage.

The city shall contribute one hundred twenty-five dollars (\$125.00) per month to the health savings account of each eligible employee with single coverage under the city's high deductible health plan and two hundred fifty dollars (\$250.00) per month to the health savings account of each eligible employee with single plus spouse, single plus children or full family coverage under the city's high deductible health plan.

Sec. 19-121. Holidays.

Following local and national custom in order to allow city employees to celebrate certain holidays by having a day off work without loss of pay, the following provisions shall apply:

(a) Permanent employees shall be entitled to the following designated paid holidays:

- (1) New Year's Day, January 1;
- (2) Memorial Day, the last Monday in May;
- (3) Independence Day, July 4;
- (4) Labor Day, the first Monday in September;
- (5) Thanksgiving Day, the fourth Thursday in November;
- (6) Christmas Day, December 25.

(b) Permanent employees shall be entitled to a paid holiday, to honor Martin Luther King, Jr., on the third Monday in January. Permanent employees shall be entitled to a paid holiday for the day after Thanksgiving. Rather than time off, fire department shift employees shall receive additional compensation in the amount of eleven and one-quarter (11.25) hours at their regular pay for these two (2) days. All other permanent employees shall receive time off or their regular compensation in accordance with the terms of this section.

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Sec. 19-159. Filling of positions.

(a) The recruitment and selection process for all classified and unclassified positions in the city service shall be coordinated by the human resources department. Applicants, regardless of protected category race, creed, color, marital status, national origin, political affiliation, religion, sex, age, sexual orientation, gender identity or disability (see section 19-176 and section 19-146) will be given equal consideration based on their total qualifications and background. For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions. All placement activities will be conducted in accordance with the city's equal employment opportunity affirmative action program. Department heads shall notify the human resources department as far in advance as possible of any requirements for new personnel, setting forth such information as requested by the human resources department. The director will then certify names of those best-qualified individuals to the department head for final selection.

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Sec. 19-176. General policy.

(a) It is the policy of the city to promote and ensure equal opportunity for all persons (without regard to protected category race, creed, color, marital status, national origin, religion, sex, age, sexual orientation, gender identity, disability, political affiliation or ancestry) employed or seeking employment, using city facilities or being serviced by the

city. ~~For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions.~~ The policy of equality applies to every aspect of city employment practice and policy involving all activity areas.

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(f) While EEO affirmative action shall be considered a top priority, neither shall it unreasonably infringe upon the goal of efficient, productive, continuing public service.

(g) Notwithstanding any other provisions of this chapter, it shall not be unlawful discrimination because of citizenship status that which is otherwise required in order to comply with law, regulation, or executive order, or required by federal, state, or local government contract, or which the United States attorney general determines to be essential for an employer to do business with an agency or department of the federal, state or local government.

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Sec. 19-181. General provisions.

(a) Any collective bargaining agreements which the city may enter into will be in accordance with the principles of placement, promotion and/or transfer of employees without regard to protected category ~~race, creed, color, marital status, national origin, political affiliation, religion, disability, sex, age, sexual orientation, gender identity or ancestry;~~ and shall be consistent with EEO goals. ~~For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions.~~

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Sec. 19-225. Guidelines for corrective action.

(a) The seriousness of an offense will often vary with the circumstances prevailing at the time it occurred and the motives which prompted it. All factors must be considered when determining the appropriate action to take in a particular situation. The violations set forth in this provision may be considered as just cause for suspension or discharge. The list of offenses presented here does not purport to be all inclusive; neither is it intended that these guidelines should be rigidly followed.

- (1) Obtaining materials or leave time based on fraudulent information; dishonesty; stealing; and other criminal acts.

- (10) Disregard for the city's EEO affirmative action policy prohibiting discrimination on the basis of protected category ~~race, creed, color, marital status, national origin, religion, sex, age, sexual orientation, gender identity, disability, political affiliation or ancestry. For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions.~~

Sec. 19-237. Grievances, complaints and disciplinary reviews.

(a) All classified employees shall have the right, except as specified herein, to utilize the grievance, complaint and disciplinary review procedures of this division when they believe an action taken against them was without just cause. The grievance, complaint and disciplinary review procedures of this division shall not be available to the following:

- (1) Probationary employees.
- (2) Employees who are serving a qualifying period subsequent to their initial probationary period except in matters not related to their status in the position in which they are serving the qualifying period.
- (3) Employees or job applicants who feel they have been discriminated against based on protected category ~~race, creed, color, religion, sex, age, sexual orientation, gender identity, national origin, ancestry, marital status, political affiliation or disability. For purposes of this definition, sex discrimination shall include, but not be limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions.~~ Such discrimination cases shall be handled pursuant to section 19-182.
- (4) Temporary employees, as defined by section 19-4 and section 19-157.

(b) It shall be the policy of the city insofar as possible to prevent the occurrence of grievances and complaints and to deal properly with those which occur.

Sec. 19-238. Procedures for grievances, disciplinary review and complaints.

(a) Whenever an employee or employee bargaining group eligible to file a grievance, disciplinary review or complaint desires to do so, the employee or employee bargaining group shall follow the procedures set out in this section. An employee may have the assistance of an attorney, a representative of the employee's bargaining group or other representative in any stage of the process. Notification of such assistance shall be given in writing signed by the employee on a form to be provided by the human resources department. A represented employee shall participate fully at all stages of the process. All documents and other submissions by employee's representative shall be read and signed

by the employee to verify that submission is truthful and accurate. Employees and their representatives may, with the permission of their supervisors, be granted time off with pay for the purpose of necessary discussions and conferences with city supervisors and administrators relating to the resolution of specific grievances and complaints.

- (f) Grievance procedures.
- (1) Employees suspended without pay, dismissed or given disciplinary demotion, including discharged employees, may file a grievance in response to receiving the written explanation of disciplinary action required by section 19-226. ~~An employee may also file a grievance following notice of separation as allowed by section 19-211(f).~~
- (2) The employee must file the grievance with the human resources department within ten (10) working days of receiving the written notice under section 19-226 ~~or the written notice under section 19-211(e).~~

(i) Grievances, disciplinary reviews or complaints which are not specifically resolved and not continued by the employee within the aforementioned time sequences, including extensions, shall be considered as satisfied and not subject to further consideration. Grievance, disciplinary review or complaint responses by the department head which are contrary to established time sequences may be elevated to the next step of the process by the human resources director on request of the employee or the employee bargaining group. The human resources director will have discretion in determining whether to elevate the dispute, but shall assure that the process is managed expeditiously.

(j) If an employee has been dismissed, any notice to the employee under this section or section 19-226 will be provided in person, if practical, or the human resources department may issue the notice by U.S. mail to the last permanent address provided by the employee. If sent by mail, notice shall be complete on mailing and the deadline for the employee's response will be extended three (3) days. The human resources department shall be responsible for documenting the date on which the notice was mailed.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 17th day of September, 2018.

ATTEST:




City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor