

**AMENDED ORDINANCE NO. 711**

**AN ORDINANCE AMENDING TITLE 4, “MUNICIPAL PERSONNEL”, CHAPTER 1, “PERSONNEL POLICY”, OF THE MUNICIPAL CODE OF THE CITY OF LAFAYETTE, TENNESSEE.**

**WHEREAS** the City Council of the City of Lafayette, Tennessee, that Title 4, “Municipal Personnel”, Chapter 1 “Personnel Policy”, “Exhibit A” of the Municipal Code of the City of Lafayette, Tennessee be amended by removing the contents of Title 4 “Municipal Personnel” Chapter 1 “Personnel Policy”, “Exhibit A” and substituting thereof the revised Title 4, “Municipal Personnel” Chapter 1 “Personnel Policy”, “Exhibit A”.

**WHEREAS** the Personnel Policies and Procedures document is of record in the city recorder’s office, and fully incorporated in this chapter by reference.

**BE IT ORDAINED** that amendments or revisions of the “Personnel Policy” rules may be recommended for adoption by the Mayor. Such amendments or revisions of these rules shall become effective after approval by ordinance of the City Council.

**BE IT FURTHER ORDAINED** that this ordinance shall take effect from and after its final passing, public welfare requiring it.

*Richard F. Driver*  
\_\_\_\_\_  
RICHARD DRIVER, MAYOR

ATTEST:

*Annette Morgan*  
\_\_\_\_\_  
CMFO/RECORDER

Passed 1<sup>st</sup> Reading                    10/3/2017  
Passed 2<sup>nd</sup> & Final Reading      11/7/2017

**EXHIBIT A**

**Contents**

**SECTION I – PERSONNEL POLICIES ..... 5**

- A. *PURPOSE AND OBJECTIVES* .....5
- B. *PERSONNEL POLICY STATEMENT* .....5
  - 1. *EMPLOYMENT AND PLACEMENT* .....5
  - 2. *POSITION CLASSIFICATION AND PAY ADMINISTRATION* .....6
  - 3. *EMPLOYEE RELATIONS AND SERVICES* .....6
  - 4. *EMPLOYEE DEVELOPMENT AND TRAINING*.....6
  - 5. *RECORDS*.....6
- C. *COVERAGE* .....6
- D. *ADMINISTRATION* .....7

**SECTION II – CLASSIFICATION PLAN ..... 8**

- A. *PURPOSE* .....8
- B. *COMPOSITION OF THE CLASSIFICATION PLAN* .....8
- C. *USE OF CLASS TITLES* .....8
- D. *USE OF CLASS SPECIFICATIONS* .....8
- E. *USE OF THE CLASSIFICATION PLAN* .....8
- F. *ADMINISTRATION OF THE CLASSIFICATION PLAN* .....9
- G. *ALLOCATION OF POSITIONS* .....9
- H. *REQUEST FOR RECLASSIFICATION* .....9
- I. *JOB DESCRIPTIONS* .....9

**SECTION III – COMPENSATION PLAN ..... 10**

- A. *PURPOSE* .....10
- B. *MAINTENANCE OF THE PAY PLAN* .....10
- C. *PAY SCALE* .....10
- D. *PAY FOR PART-TIME WORK* .....11
- E. *HOURLY RATES* .....11
- F. *PAYROLL DEDUCTIONS* .....12

**SECTION IV – EMPLOYMENT ..... 13**

- A. *APPLICATIONS* .....13
- B. *RESIDENCY* .....14
- C. *PHYSICAL EXAMINATIONS* .....14
- D. *MINIMUM AGE* .....15

E. TYPES OF EMPLOYEES .....	15
F. APPOINTMENTS, PROMOTION, DEMOTIONS AND TRANSFERS.....	16
G. PROBATIONARY PERIOD .....	19
H. MOONLIGHTING/OUTSIDE EMPLOYMENT .....	19
I. WORK DAY/WORK WEEK .....	19
J. ATTENDANCE .....	20
K. OVERTIME PAY.....	20
L. ON CALL .....	21
M. NEPOTISM.....	21

**SECTION V – BENEFITS..... 23**

A. LEGAL HOLIDAYS, BIRTHDAY & SAFETY DAY .....	23
B. HOLIDAY PAY.....	23
C. ANNUAL VACATION WITH PAY .....	24
D. SICK LEAVE .....	25
E. SPECIAL LEAVE WITH OR WITHOUT PAY.....	28
F. FAMILY AND MEDICAL LEAVE .....	28
G. AMERICANS WITH DISABILITIES POLICY.....	34
H. MILITARY LEAVE.....	37
I. MILITARY RESERVE DUTY LEAVE.....	37
J. JURY SERVICE LEAVE .....	38
K. EDUCATIONAL LEAVE.....	38
L. DEATH OF AN EMPLOYEE.....	38
M. RETIREMENT SYSTEM.....	39
N. HOSPITALIZATION INSURANCE .....	39
O. LIFE INSURANCE.....	39
P. OCCUPATIONAL DISABILITY .....	39

**SECTION VI – MISCELLANEOUS POLICIES..... 40**

A. SOLICITATION.....	41
B. PERSONAL TELEPHONE CALLS.....	41
C. NARCOTICS AND INTOXICATING LIQUORS.....	41
1. PURPOSE OF DRUG TESTING PROGRAM - NOTICE .....	41
2. GENERAL RULES .....	41
3. DRUGS TO BE TESTED FOR.....	42
4. PRIOR NOTICE OF TESTING POLICY.....	42
5. CONSENT .....	43
6. JOB APPLICANT TESTING: GENERAL STANDARD.....	43
7. CURRENT EMPLOYEE TESTING; GENERAL STANDARD .....	43

8.	REFUSAL TO CONSENT: APPLICANT .....	44
9.	REFUSAL TO CONSENT: EMPLOYEES.....	44
10.	CONFIRMATION OF TEST RESULTS .....	45
11.	CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES.....	45
12.	THE RIGHT TO A HEARING .....	45
13.	MANDATORY EMPLOYEE ASSISTANCE PROGRAM REFERRAL .....	46
14.	CONFIDENTIALITY OF TEST RESULTS .....	46
15.	LABORATORY TESTING REQUIREMENTS .....	46
<i>D.</i>	<i>FIGHTING, HORSEPLAY, DAMAGING MUNICIPAL GOVERNMENT PROPERTY .....</i>	<i>46</i>
<i>E.</i>	<i>GARNISHMENT .....</i>	<i>47</i>
<i>F.</i>	<i>TRIP APPROVAL.....</i>	<i>47</i>
<i>G.</i>	<i>TRIP REIMBURSEMENT .....</i>	<i>47</i>
<i>H.</i>	<i>USE OF CITY VEHICLES AND EQUIPMENT.....</i>	<i>47</i>
<i>I.</i>	<i>HARASSMENT.....</i>	<i>47</i>
<i>J.</i>	<i>POLITICAL ACTIVITY.....</i>	<i>54</i>
<i>K.</i>	<i>PERSONNEL RECORDS.....</i>	<i>54</i>
<i>L.</i>	<i>STATEMENT OF UNDERSTANDING.....</i>	<i>54</i>
<i>M.</i>	<i>MEAL PERIODS AND REST BREAKS.....</i>	<i>54</i>
<b>SECTION VII – SEPARATIONS AND DISCIPLINARY ACTIONS.....</b>		<b>55</b>
	<i>TYPES OF SEPARATIONS.....</i>	<i>56</i>
<i>A.</i>	<i>RESIGNATION.....</i>	<i>56</i>
<i>B.</i>	<i>LAY-OFF.....</i>	<i>56</i>
<i>C.</i>	<i>DISABILITY.....</i>	<i>56</i>
<i>D.</i>	<i>RETIREMENT .....</i>	<i>57</i>
<i>E.</i>	<i>DEATH .....</i>	<i>57</i>
	<i>DISCIPLINARY ACTION.....</i>	<i>57</i>
1.	ORAL REPRIMAND .....	57
2.	WRITTEN REPRIMAND .....	57
3.	SUSPENSION .....	58
4.	DISMISSAL.....	58
	<i>GRIEVANCE PROCEDURES.....</i>	<i>59</i>
<b>SECTION VIII – AMENDMENT OF PERSONNEL RULES.....</b>		<b>60</b>
<i>A.</i>	<i>AMENDMENTS.....</i>	<i>60</i>
<i>B.</i>	<i>SEVERABILITY .....</i>	<i>60</i>
	<i>SPECIAL NOTE .....</i>	<i>60</i>

## **SECTION I – PERSONNEL POLICIES**

### **A. PURPOSE AND OBJECTIVES**

The purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees which comes from a systematic application of good procedure in personnel administration, and to provide uniform policies for all employees, with all the benefits such a program insures without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information or any other basis protected by law.

The fundamental objectives of good personnel administration to be achieved by these policies are:

1. To promote and increase efficiency and economy among employees of the City of Lafayette.
2. To provide fair and equal opportunity to all qualified citizens on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection.
3. To develop a program of recruitment, advancement and tenure which will make employment with the City more attractive as career and encourage each employee to render the best service.
4. To establish and maintain a uniform plan of evaluation and compensation.
5. To establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

### **B. PERSONNEL POLICY STATEMENT**

It is the policy of the City of Lafayette to apply and foster a sound program of personnel management.

The policies of the Municipal government are as follows:

#### **1. EMPLOYMENT AND PLACEMENT**

- a. To fill all positions, without undue delay, in accordance with job qualifications and requirements without discriminations as to race, color, creed, national origin, handicap, or political affiliation.
- b. To establish programs for the promotion, transfer, demotion, dismissal and reassignment of personnel.

## **2. POSITION CLASSIFICATION AND PAY ADMINISTRATION**

- a. To establish and maintain job descriptions for every position with the descriptions maintained on file with the Recorder and Superintendent.
- b. To review position descriptions periodically and systematically with the employee to insure currency and accuracy.
- c. To establish appropriate position standards and to group positions in classes with similar standards.
- d. To conduct area wage and salary surveys periodically in order to provide competitive wage and salary scales.

## **3. EMPLOYEE RELATIONS AND SERVICES**

- a. To establish rules and standards governing employee conduct both on and off the job.
- b. To administer a uniform leave program.
- c. To provide employee grievance procedures.
- d. To develop a handbook to inform employees of their responsibilities, rights, and privileges.
- e. To provide and maintain a safe and healthful work environment.

## **4. EMPLOYEE DEVELOPMENT AND TRAINING**

- a. To establish training standards and requirements for all positions.
- b. To motivate and stimulate employees to achieve their highest potential usefulness.

## **5. RECORDS**

To establish and maintain comprehensive and uniform personnel records.

### **C. COVERAGE**

These rules and regulations shall cover all employees in the city service unless specifically exempt by this document, the city Charter and/or the ordinances of the municipality without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information or any other basis protected by law.

All offices and positions of the Municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the City's service unless specifically placed in the exempt service. All offices and positions of the Municipal government placed in the exempt service are as follows:

1. All elected officials.
2. Members of appointed boards and commissions.
3. Consultants, advisers, and legal counsel rendering temporary professional service.
4. City Attorney.
5. Independent contractors.
6. Persons employed by the Municipality for not more than three (3) months during a fiscal year.
7. City Judge.

Some policies apply to all employees and officers of the city including those placed in the exempt service, such as policies related to discrimination and/or harassment, and policies required by state or federal law.

#### **D. ADMINISTRATION**

These rules shall be administered by the Mayor under the direction of the City Council and in conformity with the ordinance establishing a personnel system.

## **SECTION II – CLASSIFICATION PLAN**

### **A. PURPOSE**

The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the city service.

### **B. COMPOSITION OF THE CLASSIFICATION PLAN**

The classification plan shall consist of:

1. A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;
2. Class titles descriptive of the work of the class which identifies the class;
3. Written specifications for each class of performance; and,
4. Physical standards for performance of the duties of the position.

### **C. USE OF CLASS TITLES**

Class titles are to be used in all personnel, accounting, budget appropriation and financial records of the municipality. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

### **D. USE OF CLASS SPECIFICATIONS**

Specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed.

### **E. USE OF THE CLASSIFICATION PLAN**

The Classification Plan is to be used:

1. As a guide in recruiting and examining candidates for employment;

2. In determining lines of promotion and in developing employee training programs;
3. In determining salaries to be paid for various types of work;
4. In determining personal service items in departmental budgets; and,
5. In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

## **F. ADMINISTRATION OF THE CLASSIFICATION PLAN**

The Personnel Committee of the City Council is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the Personnel Committee to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions/ and periodically to review the entire classification plan and recommend appropriate changes in allocations or in the classification plan itself.

## **G. ALLOCATION OF POSITIONS**

Whenever a new position is established, or duties of an old position change, the supervisors shall submit in writing a comprehensive job description describing in detail the duties of such a position. The Personnel committee shall investigate the actual or suggested duties and recommend to the city Council the appropriate class allocation for the establishment of a new class. The City Council shall then approve or change such recommendations.

## **H. REQUEST FOR RECLASSIFICATION**

Any employee who considers his/her position improperly classified shall first submit his/her request to the immediate supervisor who shall review the justification for the request. If the supervisor finds that there is merit in the request, he/she shall immediately transmit his/her recommendation to the Mayor and/or the Personnel Committee. If the department head/supervisor finds the request is not justified, he/she shall advise the employee his/her decision and also the employee's rights to appeal the decision under the grievance procedures.

## **I. JOB DESCRIPTIONS**

Job descriptions are of record in the city recorder's office.

### **SECTION III – COMPENSATION PLAN**

#### **A. PURPOSE**

The pay plan is intended to provide fair compensation for all classes in the classification plan in consideration of the pay for other classes, general rates of pay for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

#### **B. MAINTENANCE OF THE PAY PLAN**

The Personnel Committee of the City Council will from time to time make comparative studies of all factors affecting the level of salaries and will recommend to the Board of Mayor and Council such changes in the salary schedule as appear to be in order.

#### **C. PAY SCALE**

There shall be a thirteen (13) level pay scale.

Skill levels. The personnel committee with the mayor and department supervisors shall determine the skill level. The skill levels shall be presented to the council for approval.

1. Promotions. In the event of a promotion, the employee advances to the skill level that has been assigned to the position. If the employee's current wages are more than the beginning of the range in that scale, the employee shall be placed in the new scale and maintain current wages with a five percent (5%) increase if the increase doesn't put the employee's salary above those under his or her supervision, the personnel committee shall make the salary increase recommendation to the mayor and council for approval.
2. Demotions. Voluntary and involuntary demoted employees shall be placed in a lower level that has been assigned to the position. The employee's current pay shall be with a minimum of a five percent (5%) decrease in salary. The incoming supervisor shall make recommendation of salary to the personnel committee; based on certification and qualifications compared to other employees in that department level. The personnel committee shall make the salary recommendation to the mayor and city council for approval.
3. Merit wage increases. This shall apply when an employee is not at the top range in a level. On the anniversary date of the employee, he may receive a merit increase based on the job performance and attendance. Merit increase, if any, must be included in the annual budget process and approved by the city council. All merit increases are subject to be reviewed by the personnel committee. In the event that the approval is beyond the anniversary date of

employee, the wage increase or promotion amount shall be retroactive. Back-pay would be limited to not go beyond the current fiscal year.

4. Cost of living increase. Each employee shall receive the cost of living increase approved by the city council. A cost of living increase shall be given a specific amount and added to the top and bottom of all levels of the pay scale. NOTE: a cost of living increase may not be needed every year, but subject to review annually by the budget committee. Cost of living suggested guidelines are provided by the U.S. Department of Labor.
5. Annual evaluation. On the anniversary date of the employee, an employee work performance evaluation shall be done by the immediate supervisor and be placed in the employee's personnel file.
6. Seasonal employees. This rate will be set by the city council annually.

#### **\*City of Lafayette – Employee Bonus (Longevity) Plan**

Paid to each full time employee to begin in year 2002.

1. Employee must be a full time\* employee at the time bonus is paid. (termination for any reason other than retirement will forfeit bonus)
2. Rate at one hundred (\$100.00) for each year of service as a full time employee.
3. To be paid by the first pay period of December.
4. Retirees may receive bonus for a partial year at retirement date, at a prorated rate, as 1/12 per month, in the month one retires.
5. Upon death of an employee, prorated rate in the month worked and payment shall be made to life insurance beneficiary.

**\*must be a full time employee on or before November 30<sup>th</sup>, in the year prior to bonus payment date.**

The employee pay scale levels are of record in the city recorder's office, and fully incorporated in this chapter by reference.

#### **D. PAY FOR PART-TIME WORK**

When an employment decision is for a regular part time position, the individual will be paid the equivalent hourly rate for the time actually worked. Regular part time and seasonal employees shall not be eligible for benefits other than workers comp benefits.

#### **E. HOURLY RATES**

In accordance with the Fair Labor Standards Act (FLSA), no employee whether full-time, part-time or probationary, shall be paid less than the Federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

## **F. PAYROLL DEDUCTIONS**

By law, the city is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made:

1. Federal Income Tax – Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to file with the city a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.

2. Social Security – Social Security payments and deductions will be made according to the Social Security Act. The (recorder/ treasurer/ personnel/human resources director) shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

3. Others – Other city authorized deductions will be made from an employee's pay with either the employee's signed consent or pursuant to a valid court order. (NOTE: The following list is not all-inclusive. Choose any of the following deductions that are applicable and add any additional deductions not listed below):

- a. health/hospitalization insurance (medical service premiums),
- b. life insurance,
- c. dental insurance,
- d. vision insurance,
- e. deferred compensation payments,
- f. pension plan,
- g. supplemental insurance approved by the city,
- h. child support or other garnishments,
- i. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA.

## SECTION IV – EMPLOYMENT

### **A. APPLICATIONS**

All applications for employment are received at city hall and given thorough consideration by the appropriate supervisor and personnel committee. Newly hired employees in levels one (1) through eight (8), starting salary rate shall be at the bottom of the level or five percent (5%) above highest paid employee being supervised by new hire. Starting pay can be negotiated for new hires in levels nine (9) through twelve (12), based on experience and certification needed for the job description. Though starting pay shall be no more than five percent (5%) above starting of level; or five percent (5%) above highest paid employee being supervised by new hire. Hourly rates shall be set upon approval of the personnel committee in accordance with the pay scale. The City of Lafayette exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments through the city.

Applicants may be removed from consideration if:

1. The applicant declines an appointment when offered;
2. The applicant cannot be located by the postal authorities – it will be deemed impossible to so locate an applicant when a communication mailed to the last known address is returned unclaimed;
3. The applicant cannot be located via appropriate alternative means of communication;
4. The applicant moves out of city if residency is required for the position;
5. The applicant is currently using illegal drugs or narcotics as determined by a post-offer, pre-employment drug test;
6. The applicant is found to have been convicted of a felony or misdemeanor dependent upon the nature and gravity of the offense, the time passed since the offense, and the nature of the job sought;
7. The applicant has made a false statement on the application;
8. The applicant does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation; and/or
9. The applicant does not possess the minimum qualifications for the position.
10. Their application has been on file over twelve (12) months.

## **B. RESIDENCY**

Individuals will be recruited from a geographic area as wide as necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, will not be limited to the residents of the municipality or county. In cases where residents and non-residents are equally qualified for positions presently vacant, the residents will receive first consideration in filling such vacancies. All applicants for positions that require the potential for call-back to respond to emergency situations (police, fire, and certain public works and utilities positions), will be required to live within eighteen (18) radius miles from city hall or their work location.

## **C. PHYSICAL EXAMINATIONS**

### **Pre-employment, post offer**

Following a conditional offer of employment, every prospective employee, when required, may be examined by a licensed medical physician designated by the city. This exam will determine whether prospective employees can perform the essential functions of the position offered. The cost of this medical examination will be borne by the city. A background check may be done on the applicant prior to employment with the city.

Prospective employees who are unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

### **Post-hire**

All employees of the city may, during their employment, be required by their department head, with the approval of the mayor to undergo an initial and/or periodic examination to determine their physical and mental fitness to continue to perform the work of their positions. These examinations shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the mayor.

Following a conditional offer of employment, every prospective regular full time employee will be given a pre-employment physical examination and a drug screening by a licensed physician designated by the city. The purpose of these examinations is to determine if the employee meets the necessary physical fitness standards of the position for which he/she was selected for. Regular part time, seasonal or temporary employees may be subject to medical examination as determined by the department head with concurrence from the mayor. The cost of these medical examinations will be paid for by the City.

A medical examination may be required when an employee is exposed to toxic or unhealthful conditions, requests an accommodation for a disability or has a questionable ability to perform current job duties or the duties of the job for which the employee is being considered.

When a city employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within 5 city business days from the date of his/her notification of such determination, indicate in writing to the mayor his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician will be mutually agreed upon and designated by both physicians. The third physician's decision will be final and binding as to the physical or mental fitness of the employee. The city will pay for its physician, the employee will pay for his/her physician, and the third physician will be paid by the city.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted, or they may be separated from the city service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

#### **D. MINIMUM AGE**

The Fair Labor Standards Act requires that employees of State and local governments be at least 16 years of age for most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Minors 14 and 15 years of age may work outside school hours under certain conditions.

#### **E. TYPES OF EMPLOYEES**

1. **Regular full time Employee** – A regular full time employee is an employee who works a minimum of 30 hours per week, is paid an hourly rate, is subject to all conditions of employment, and receives all benefits offered by the city unless specifically excluded by the city charter, code, or ordinance. Regular full time employees serve a one year probationary period.
2. **Regular part time Employee** – A regular part time employee is an employee who works part time hours on a consistent basis and whose hours cannot exceed 29 hours per week unless approved by the supervisor. Regular part time employees may not be eligible for city benefits other than prorated vacation and coverage under workers' compensation.
3. **Seasonal/Temporary Regular full time Employee** – A seasonal or temporary regular full time employee is an employee who works regular full time, not

exceeding six (6) consecutive months of employment and who is paid on a per day or per hour basis. Following completion of six (6) consecutive months of employment, if the employee is not hired in a regular full time capacity, employment may terminate. A temporary employee may not be subject to all conditions of employment, but shall be fully capable of performing the assigned duties and will receive no benefits except coverage under workers' compensation. Individuals who are classified as temporary employees and are hired to fill a regular position shall begin to accrue benefits on the effective date of regular employment.

4. **Seasonal or Temporary Regular part time Employee** – a temporary regular part time employee is an employee who works fewer than thirty (30) hours per week. Temporary employees may not work more than six (6) months per year.
5. **Volunteer Employee** – A volunteer is an individual who works for the city for no compensation. (The city may provide uniforms and workers' compensation benefits.)
6. **Volunteer Firefighters** –Volunteer firefighters are compensated per fire-call/per training activity with no other benefits except coverage under the Volunteer Firefighters Insurance Coverage Policy and workers' compensation. Volunteer firefighters will be paid once a year in the month of November. The pay per call plan is based on an individual firefighters attendance. The plan is as follows:

0% through 19%	\$10 per call
20% through 29%	\$20 per call
30% and up	\$25 per call

Training will be paid per block at a rate of forty (40.00) dollars. A “block” is up to, but not to exceed four (4) hours in length. Rookie school training will be six hundred dollars (\$600.00). False alarms and paid cancellations will be fifteen (15) dollars. A special assignment will be twenty (20) dollars per event.

## **F. APPOINTMENTS, PROMOTION, DEMOTIONS AND TRANSFERS**

Pursuant to the City Charter, The City Council has the authority to appoint, promote, demote, transfer, suspend and remove all officers and employees of the City of Lafayette.

Appointments to positions with the municipal government fall into four categories. They are:

1. Original Appointment – when a non-employee passes all the requirements of employability and is offered employment.
2. Provisional Appointment – When the municipality is unable to fill a vacancy because of an insufficient number of applicants, the Mayor may authorize the supervisor to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the City Council and no payment shall be made for services rendered by the appointee prior to the appointment.
3. Emergency Appointments – The Mayor may authorize the appointment of any qualified person to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed ninety (90) days in any twelve (12) month period.
4. Student Appointments – Students, majoring in a field of value to the municipal government, from a qualified, cooperating educational institution, may be employed on an “internship” basis for a period not to exceed twelve (12) months. The appointment must be approved by the City Council.

A promotion is an assignment of employee from one position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by the promotion of employees in the service. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When an employee in one classification is promoted to a position in another classification and the employee’s current rate of pay is less than the minimum rate for the new position, the employee’s salary shall be raised to that minimum rate. When the employee’s salary falls above the new minimum rate, a 5% percentage increase shall be given. In the event that the five percent (5%) increase doesn’t put the employee’s salary above those under his or her supervision, the Personnel Committee shall make the salary increase recommendation to the Mayor and Council for approval.

When an employee desires to transfer from one department to another, it must be agreeable to both supervisors involved and approved by the City Council. The transfer of an employee from one position to another without significant change in level may be effective:

1. when the employee meets the qualification requirements for the new position,
2. if it is in the best interest of the municipal government, and
3. if it meets the personal needs of the employee as consistent with the other requirements of this rule.

4. as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job

An employee who transfers from one of the municipal governmental departments to another will retain and carry forward all benefits earned or accrued or both as of the date of transfer. As a general rule lateral transfers require no increase in compensation.

A demotion is an assignment of an employee from one position to another which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

1. Because his/her position is being abolished and he/she would otherwise be laid off;
2. Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job;
3. Because there is a lack of work;
4. Because there is a lack of funds;
5. Because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned;
6. Because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds;
7. Because the employee voluntarily requests such a demotion and it is available.
8. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job; and/or
9. as a form of disciplinary action.

When an employee in one classification is demoted to a position in a lower classification and the employee rate of pay is higher than the minimum rate for the new position, the employee's salary shall be reduced to the classification rate. (c)Demotions: Voluntary and involuntary demoted employees shall be placed in a lower level that has been assigned to the position. The employee's current pay shall be with a minimum of a 5% decrease in salary. The incoming supervisor shall make recommendation of salary to the personnel committee; based on certification and qualifications compared to other employees in that department level. The personnel committee shall make the salary recommendation to the Mayor and city council for approval.

## **G. PROBATIONARY PERIOD**

The probationary, or working test period, is an integral part of the examination process, and shall be utilized for the following:

1. closely observing the employee's work,
2. securing the most effective adjustment of a new promoted employee to his/her position, and
3. rejecting any employee whose performance does not meet work standards.

The probationary period for all regular appointments shall be for a period of twelve (12) months. Supervisors may request an extension of any employee's probationary period with the prior approval of the City Council. In no event may a probationary period be extended beyond eighteen (18) months.

During the probationary period the Mayor shall require the supervisors to report the observations of the employee's work and his/her judgment of the employee's willingness and ability to perform the duties assigned. During the probationary period the supervisor will inform the employee when his/her performance is unsatisfactory and not meeting the probationary test requirements.

## **H. MOONLIGHTING/OUTSIDE EMPLOYMENT**

No full time officer or employee of the municipality shall accept any outside employment without written authorization from the Mayor. The Mayor shall not grant such authorization if the work is likely to interfere with satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality.

## **I. WORK DAY/WORK WEEK**

Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as is provided in special contracts of employment, the number of days that shall constitute a workweek for regular employment shall be five (5) per week. Schedules will vary in departments as necessary for the smooth operation of the City. A standard work week is scheduled between 12:00 a.m. on Saturday through 12:00 a. m. on the Saturday following.

Fire fighters work three shifts, designated as A, B, and C, each shift shall consist of twenty-four and one-half (24 ½) hours in length. All shifts begin at 7:00 a.m. through the following morning at 7:30 a.m. There shall be five (5) hours sleep time deducted from each shift

for payroll purposes. Employees are expected to receive at least five hours uninterrupted sleep between the hours of 1:00 a.m. and 6:00 a.m. in the morning. Should any employee fail to receive the allotted sleep time, interrupted by a call between 1:00 a.m. and 6:00 a.m., the employee shall receive pay for the full twenty-four and one-half (24 ½) hour shift. Full-time employees working only part of their regular shift are still subject to sleep time, if applicable. Part-time employees working full shifts will have sleep time deducted as is normally done for full-time employees. Employees working part of a shift, not regularly schedule, are not subject to sleep time as long as the hours worked total thirteen hours or less.

## **J. ATTENDANCE**

Punctual and regular attendance is necessary for the efficient operation of the city. Employees unavoidably late or absent from work due to illness or other cause, must notify their supervisor as early as possible, explaining the reason for the absence and, if possible an anticipated return to work date. Failure to notify one's supervisor of absence may result in disciplinary action.

## **K. OVERTIME PAY**

(a) Overtime pay - When it becomes necessary for an employee to work overtime hours, all employees that are not exempt under the FLSA shall be paid according to the prevailing salary schedule, and according to FLSA regulations. Overtime work will be compensated in accordance with the provisions of the Fair Labor Standards Act at a rate of one-and-one half (1 ½) the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one-and-one half (1 ½) times the hours worked in accordance with the Fair Labor Standards Act. Generally, overtime work must be authorized by the department supervisor in advance. Overtime rules for police officers shall be at a rate of one-and-one half (1 ½) times the hours worked over forty-three (43) hours per week. Overtime rules for the fire fighters and assistant chief shall be a rate of one-and-one half (1 ½) times the hours worked over two-hundred and twelve (212) hours in twenty-eight (28) days.

(b) Employees in salary levels 12 and 13 are not authorized to receive paid overtime. Employees in salary levels 12 and 13 are authorized to have a flexible work schedule in each work week. This flexible schedule should be encouraged to be used when these employees need to attend meetings that will require them to log more than forty (40) hours in a work week. Other hours worked in excess of forty (40) hours per week shall be accrued as compensatory time at the rate of one-and-one half hours for each overtime hour worked up to the FLSA accrual limits. Once accrual limits are reached, any overtime worked within the workweek will be paid at one and one-half the employee's regular rate of pay.

(c) Compensatory time - Employees may elect to accrue compensatory time in lieu of overtime pay. Each employee has the option to select each pay period if they want their overtime paid that week with their normal pay check or if they want to accrue all or part of the overtime as compensatory time for future time off in lieu of the overtime pay. In some cases employees may be required by the department supervisor to receive paid overtime due to the work load in the work division. Compensatory time will be calculated at the rate of one-and one-half hours for each overtime hour worked. Each employee may accrue up to two-hundred and

forty (240) hours of compensatory time, with the exception employees in the Fire and Police Departments may accrue 480 hours as per the Fair Labor Standards Act. If an employee reaches the compensatory time accrual cap limit of either two-hundred and forty (240) or four-hundred and eighty (480) respectively, they will be paid cash overtime on the subsequent pay date for all hours worked in excess of their overtime threshold until such time the employee falls below the cap limit. Employees shall be permitted to use the compensatory time on the date requested unless doing so would "unduly disrupt" the operations of the work division. Compensatory time will only be paid with cash when an employee retires or when they leave employment with the City.

#### **L. ON CALL**

The Utility and Public Works Departments may have an employee on call 24 hours a day, upon the discretion of the Mayor, Public Works Director, and the department supervisors. Any employee that is on call shall be compensated at a rate of eight (8) hours straight pay. If an employee is on call, they will receive eight (8) hours of on call pay per week. Should that employee have to come in for scheduled work, that employee will receive pay for the amount of time worked. A maximum of four (4) employees shall be in on-call status. All employees are subject to be called in.

#### **M. NEPOTISM**

Prohibited. No person who is a relative of the mayor or a member of the city council shall be hired by the city for any type of employment.

1. No two employees who are relatives shall be placed within the same department or line of supervision. This policy may preclude employees from future promotion opportunities if such promotion would place relatives within the same line of supervision, or where favoritism or an unsound employment condition may occur. Volunteer firefighters shall be exempt from this section.
2. This policy applies to promotions, demotions, transfers, reinstatements, and new appointments.

“Relative” means, for nepotism purposes, a spouse, parent, parent-in-law, child, brother, sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, stepbrother, stepsister, half-brother, half-sister, or other family member who resides in the same household.

When a violation of this policy results from the marriage of employees, the violation shall be resolved by means of dismissal, resignation or transfer within the City. The City shall advise the employees of each of the alternatives available to remove such violation. Such employees shall be given the opportunity to select among such available alternatives.

An application for employment submitted by a relative of a current employee will not be considered when the position applied or falls within the line of supervision of the related

employee. Relatives may only be considered for employment if the current related employee agrees in writing to transfer, resign or retire so as to eliminate any line of supervision of the applicant.

## SECTION V – BENEFITS

### **A. LEGAL HOLIDAYS, BIRTHDAY & SAFETY DAY**

All offices and shops of the City of Lafayette, except emergency and necessary operations, will be closed and employees excused on the following legal holidays:

New Year's Day	January 1 <sup>st</sup>
M. L. King Birthday	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup>
Labor Day	First Monday in September
Veteran's Day	Nov. 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24 <sup>th</sup>
Christmas Day	December 25 <sup>th</sup>

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed.

Each employee shall be given his/her birthday off with pay. If the birthday falls on a Saturday, the employee shall have Friday off. If the birthday falls on Sunday, the employee shall have Monday off. Firefighters and Policemen shall schedule their birthday leave with their respective Fire Chief or Police Chief.

City employees are given one day off with pay for going one year without having a chargeable accident. Time to run from January 1, through December 31. Effective January 7, 1997.

### **B. HOLIDAY PAY**

All holiday pay will be computed on the basis of a regular work day and only those employees normally scheduled on a rotating shift will be eligible for such pay. Eligible employees will be compensated at a rate of time and one half for any hours worked on the holiday in addition to straight time holiday pay. All others will receive a rate of time and one half for any hours worked on the holiday in addition to straight time holiday pay if called upon in an emergency situation, or required situation, to work on a legal holiday, only on the day the legal holiday is observed. The required situation shall be given a written authorization by the mayor. Employees eligible for holiday pay must be in a pay status his/her last regular shift scheduled before a holiday and his/her first regularly scheduled shift after a holiday in order to receive compensation for the holiday. This subsection shall not apply to members of the Lafayette Police and Fire Departments.

All employees of the City of Lafayette shall be allowed to accumulate and hold, from one year to the next, eighty (80) hours of holiday pay. When an employee has eighty (80) hours of holiday time accumulated he/she shall receive holiday pay in the pay period of the holiday. The employees with more than eighty (80) hours of accumulated holiday pay time on July 1, 2008 will receive holiday pay for all holidays worked until said employee uses his/her holiday time down to eighty (80) hours. An employee must be paid for a holiday if not working that day. A holiday may be saved if the employee is scheduled to work on a particular holiday. No employee shall cash in more than forty (40) hours of holiday pay within a thirty (30) day period without approval of the department head and the Mayor.

### **C. ANNUAL VACATION WITH PAY**

Prior to July 1, 2017, after one (1) year the full-time employee is given 40 hours annual leave. Each month after the first year 3.334 hours will be added to that employee's annual leave. After an employee has been employed three (3) years an additional 40 hours would be added with 6.667 hours added each month until he or she had been employed (10) years. At that time an additional forty (40) hours will be added to the employee's accumulated annual leave and each month after the employee's anniversary date, ten (10) hours will be added to the annual leave. After fifteen (15) years employment an additional forty (40) hours will be added making their annual leave at four (4) weeks per year. From this time on 13.334 hours will be added monthly to employee's accumulated annual leave as long as that employee remains an active full time employee.

Regular part-time employees shall receive vacation and sick leave after being employed by the City of Lafayette for one (1) year. On the employee's one (1) year anniversary the employee shall receive twenty (20) hours of vacation time. On the second (2<sup>nd</sup>) anniversary the employee shall receive twenty (20) hours. When the employee is employed three (3) years he/she shall receive twenty-five (25) hours vacation time. This shall be the hours of vacation until the employee has served ten (10) years, at which time the employee shall receive thirty two (32) hours vacation time. A regular part-time employee shall not receive more than thirty two (32) hours of vacation. A regular part-time employee may accumulate eighty (80) hours of vacation and transfer from one (1) year to the next.

Effective July 1, 2017, for all new hires. After one (1) year the full-time employee is given 40 hours annual leave. Each month after the first year 3.334 hours will be added to that employee's annual leave. After an employee has been employed three (3) years 6.667 hours added each month until he or she had been employed ten (10) years. After ten (10) years, ten (10) hours will be added monthly to the employee's annual leave. After fifteen (15) years of employment, 13.334 hours will be added monthly to the employee's accumulated annual leave as long as that employee remains an active full time employee.

Any City employee who has one hundred and sixty (160) hours of accumulated annual leave and chooses not to take said annual leave, may at his/her request and with the approval of his/her supervisor roll the annual leave over to be counted as sick leave.

Employees with less than forty (40) hours work time per week who qualify of annual leave would be updated in the same way except on the basis of their hours worked.

Vacations will be scheduled in advance for the mutual convenience of the employee and the City Government so proper adjustments can be made in the work schedules. Supervisors preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/ her annual leave until his/her request has been approved by the supervisor.

An employee who is voluntarily separated from, and not terminated for cause, the employment of the city shall be paid for his/her unused vacation leave on a regular pay period basis. The termination date shall coincide with last date of the last pay period. In no event shall an employee who has not completed at least (1) year of satisfactory service receive terminal vacation pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. There shall be no pay in lieu of vacation. When an employee is on "leave without pay" for 15 days during any calendar month no annual leave accumulates. Employees may not borrow against future annual vacation nor transfer earned leave to another employee.

Service in the Tennessee National Guard, State Militia Military Reserves may be charged as annual vacation at the option of the employees. Employees electing to coincide vacation time with military leave shall receive full pay for amount of specified vacation leave.

**D. SICK LEAVE**

Each regular employee will accrue sick leave at the rate of one (1) day per month with no limit on the accumulation of sick days provided further all sick days accumulated during employee's tenure may be added to their years for the purpose of calculating retirement benefits.

Generally, employees become eligible to use sick leave when:

1. Employees are incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment.
2. For necessary care and attendance or death of a member of the employee's immediate family when approved by their supervisor.

IMMEDIATE FAMILY

Husband	Wife
Father	Mother
Brother	Sister

Son	Daughter
Father-in-law	Mother-in-law
Grandfather	Grandmother
Legal Foster Parents and Children	

“Immediate family shall also include Brothers-in Law, Sisters-in-law, Grandchildren, Aunts, Uncles, and Step-parents, to be eligible for sick leave for a death, only of these family members.”

3. After exposure to a contagious disease, when certified by a qualified doctor’s certificate, that the employee may jeopardize the health of others.

**Bereavement leave**

If any employee’s:

Mother (step)	Father (step)
Spouse (husband/wife)	Child (step)
Brother (half/step)	Sister (half/step)
Father-in-law	Mother-in-law
Son-in-law	Daughter-in-law

dies, the city will grant the employee time off, and will pay the employee for that time off, as described below:

1. The employee will be granted off, and will be paid for the calendar day before the funeral, the calendar day of the funeral, and the calendar day after the funeral, for each such day that the employee had been scheduled to work. If the employee had not been scheduled to work on one or more of those days he/she shall not be paid for those day (s), and shall not be granted off an alternative day in its place. If one of the three days described above falls on a Saturday, and that Saturday is a scheduled work day, the employee shall be eligible for the bereavement leave benefit for that day.
2. The employee will be paid one day of pay for each day granted off:
  - a. If the employee is a full time employee, he/she shall be paid for the number of hours of work actually scheduled for the day not worked.
  - b. If the employee is a regular part-time employee, he/she shall be paid for the average number of hours per day that he/she has worked during the week in which the funeral occurs, prior to the bereavement leave. If the regular part-time employee had not worked prior to the bereavement leave during the week in which the funeral occurs, he/she shall be paid for the average number of hours per day that he/she had worked during the previous week.

3. The employee's rate of pay for the days granted off shall be the base rate of pay, excluding any overtime premium.
4. An employee may request additional time off work, without pay. The city will be reasonable in reviewing that request, but retains the right to deny the request. If the request is granted, the employee will not be required to take such time as annual or sick leave.
5. If any of the three bereavement leave days described in item #1 above occurs on a paid holiday or during any time of city granted leave (including, but not limited to, sick leave, annual leave, military leave), the employee will not be paid for such bereavement days. However, if such a bereavement day occurs on a day that had been previously scheduled as an annual day, will be paid for that day as a bereavement day in the manner described above, and will not be charged an annual day.
6. The employee will be paid one day of bereavement pay in accordance with the above policy following the death of the following family members:

Grandparents	Grandchild
Brother-in-law	Sister-in-law

7. Employees that meet the above requirements will be granted off, and will be paid for the calendar day of the funeral. If the employee had not been scheduled to work on that day he/she shall not be paid for the day of the funeral, and shall not be granted off an alternative day in its place. If the day described above falls on a Saturday or Sunday, and that Saturday or Sunday is a scheduled work day, the employee shall be eligible for the bereavement leave benefit for that day.

To prevent abuse of the sick leave privilege, the Mayor and/or supervisors are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three (3) consecutive work days (three consecutive work shifts for firefighters) will require a doctor's certificate to return to work.

Any sick leave used to fill out a day must be approved by the Mayor or the superintendent before leaving work that day. It will not be approved the next day. At no time can sick leave be used to "fill out" a week short of 40 hours worked or from leaving work early. Anyone caught using sick leave for any purpose other than stated above will be in violation of city code and may be written up.

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for 15 days during any calendar month no sick leave accumulates.

Eight (8) hours absence from work while sick will constitute one day of sick leave for all employees; or the number of hours that constitutes an employee's regularly scheduled work day.

All employees will be charged one day of sick leave for absence from work while sick.

Employees may not borrow against future sick leave, but shall be allowed transfer of earned sick leave to another employee when an employee's special need arises. Such transfers must be approved in each case by the Lafayette City Council. An employee upon exhausting all earned sick leave may use earned annual leave or take leave without pay.

An employee, at the time of retirement, will receive his/her regular rate of pay compensation for sick leave days. Any employee hired on or after January 1, 2017, may upon retirement; choose to receive up to seven-hundred and twenty (720) hours of accrued sick leave in the form of either a lump sum cash payout, or in the form of terminal leave at the time of retirement. Any accumulated sick leave time over seven-hundred and twenty (720) hours, may be credited toward days of service time to the Retirement System pursuant to Tennessee Code Annotated, Section 8-34-604. Any employee hired before January 1, 2017, may upon retirement, receive up to the full amount of accrued sick leave hours in the form of either a lump sum cash payout, or in the form of terminal leave at the time of retirement. Terminal leave taken will be used as a continuation of employment for purposes of retirement benefit calculation, and retirement contribution will be deducted from pay. Lump sum payments for terminal leave will not be included for retirement purposes, and will not be used as a continuation of employment for purposes of retirement benefit calculation, and retirement contribution will not be deducted from lump sum pay out.

#### **E. SPECIAL LEAVE WITH OR WITHOUT PAY**

Special leave is defined as time off from regular work which can be granted with or without pay at the direction of the Mayor for no more than five (5) days. Special leave with pay that extends beyond five (5) days shall be approved by the city council.

Special leave without pay may not be granted until all accumulated time has expired. Special leave shall not exceed ninety (90) consecutive days for temporary sickness, maternity, disability, or for other good and sufficient reason, if employee is not eligible for Family and Medical Leave. Such leave shall require the prior approval of the Mayor. An employee on special leave without pay shall not accrue sick leave or vacation credit while on leave status. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

While on leave and all accumulated time has expired, the City of Lafayette shall not continue to pay any portion of the employee's life or health insurance unless subject to FMLA. It shall be the employee's responsibility to continue the coverage at his/her own expense.

#### **F. FAMILY AND MEDICAL LEAVE**

##### Purpose

The purpose of this policy is to provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993. The policy also

provides the changes to FMLA that come as part of the National Defense Authorization Acts as amended.

### Eligibility

The Family and Medical leave policy is applicable to employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period, and work for an employer with 50 or more employees within a 75-mile radius of the worksite. Such employees are eligible for a maximum of 12-16 weeks leave under the act, depending upon eligibility circumstances. Special rules apply for husbands and wives employed by the same employer, for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis), and for local educational agencies. Individuals who are not covered include elected officials, political appointees, volunteers, independent contractors, and legal advisors.

### FMLA Circumstances

Employees may be eligible for Family and Medical Leave for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member with a serious health condition as defined by the FMLA;
4. Medical leave when the employee is unable to work because of a serious health condition;
5. To care for an immediate family member as defined under the FMLA who is injured while on active duty if that injury renders the service member unfit for military duty;
6. To handle a "qualifying exigency" relating from an employee's spouse or child being called to active duty.

### Paid / Unpaid Leave

Family Medical Leave (FML) may be paid or unpaid. If the employee has available paid leave, that leave will run concurrently with FML. If the employee does not have paid leave available, or he/she exhausts paid leave, while out of FML, the remainder of the approved FML will be unpaid. Employees on unpaid leave will not accrue paid leave if they are on unpaid leave for more than 15 days in a month.

Employees requesting FML must generally use their accumulated sick leave, or annual/vacation leave. The combination of paid leave and unpaid leave may not exceed the total allowable leave under the FMLA.

### Guidelines

An eligible employee may take up to 12 weeks of FML in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for

one's self, a child, spouse, or parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible. Eligible employees may take up to 12 weeks of FML to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 weeks leave under FML to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a "serious injury or illness."

The "parent" as defined in the Family and Medical Leave Act, need not be the employee's biological parent, provided that the individual "stood in loco parentis" (acted as a parent), to the employee when the employee was a child. Benefits under FMLA are not extended to parents "in-law."

FMLA defines the term "spouse" to mean a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a same-sex marriage that was common law marriage. "Spouse" also includes a husband or wife in a marriage that was validly entered into outside of the United States if it could have been entered into in at least one state. No employer would be required to grant an eligible employee FML to care for an unmarried domestic partner.

"Son or daughter" is defined in part as one who is under age eighteen (18) or as an adult who is incapable of self-care because of a mental or physical disability. Medical leave may be taken for a biological child, as well as foster children, adopted children, step children or legal wards such as a niece, nephew or grandchild who the employee is raising.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment.
2. A period of incapacity of more than three consecutive calendar days that also involved treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity.
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider.
6. Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious injury or Illness for an Injured Service member is defined as a covered service member's injury or illness incurred in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

During period of unpaid FML, an employee may not accrue any additional seniority or similar employment benefits during the leave period in months in which they work fewer than 15 days; or any right, benefit, or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken leave.

#### Spouse / Same Employer

If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, or care for a parent, their aggregate leave under FMLA is limited to 12 weeks. If the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouses experience their own serious health condition, both employees are entitled to the full 12 weeks.

#### Right to Return to Work

On return from FML, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.).

#### Notice and Scheduling

An eligible employee must provide the city at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen medical events.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was FMLA. Failure to provide notice of the need for FML may result in the leave not being designated as FML.

The city will, if necessary, provide the notice of employee FMLA rights in alternate formats.

### Certification

The city reserves the right to verify an employee's request for FML. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the city may require that the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. Failure to submit proper certification may result in a delay of FML approval. If the city has a reason to question the original certification, the city may, at the city's expense, require a second opinion from a different health care provider chosen by the city. The health care provider may not be employed by the city on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

Payment for the second opinion shall be borne by the employee. Payment for the third shall be divided between the employee and the city. This certification must contain the date on which the serious health condition began; its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification will be treated as confidential and privileged information under HIPAA and the State's Public Records laws as appropriate.

An employee may be required to report periodically to the city the status and the intention of the employee to return to work. Before return is granted, employees who have taken unpaid leave under this policy may be required to furnish the city with a medical certification from the employee's health care provider that the employee is able to resume work.

Failure to provide certification in a timely manner may result in delay or denial of FMLA.

### Reduced and Intermittent Leave

FMLA leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent leave is defined as the smallest increment the payroll system will accommodate. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the city's approval. The schedule must be mutually agreed upon by the employee and the city.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the city to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

## Restoration

Employees who are granted leave under the FMLA policy will be reinstated to an equivalent of the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent highest paid workers, may be denied restoration.

Restoration may be denied to key employees if:

1. The city shows that such denial is necessary to prevent substantial and grievous economic injury to the city's operations;
2. The city notifies the employee that it intends to deny restoration on such basis at the time the city determines that such injury would occur; and
3. In any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

Employees voluntarily accepting a light duty assignment in lieu of continuing FML maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FML has passed.

## Failure to Return to Work

According to the FMLA "if an employee is unable to or does not return to work at the end of twelve (12) weeks of FML, all entitlement and rights under the FMLA cease at that time; the employee is no longer entitled to any further restoration rights under the FMLA, and the employer is no longer required to maintain group health benefits pursuant to the FMLA."

## Notification of Discharge

An employee may be discharged from employment at the end of the twelve (12) week entitlement period if the employee has not returned to work, has not supplied written notification of their intent to return to work or is unable to perform his/her job duties. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.) prior to discharge.

## The 12-Month FMLA Period

The 12-month period during which an employee is entitled to 12 workweeks of FML is measured as follows. An employee is entitled to 12-26 weeks of leave during the 12-month period after the leave begins. The next FML period will begin the first time the employee request FML after the completion of the previous 12-month period.

## Denial of FMLA Leave

If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the city may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the city of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, the city may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not designated as FML.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the city may delay restoration until the employee submits the certification.

#### Employee Benefits While on FMLA

During periods of FML, the city will continue to provide health insurance benefits at the employee rate. If premiums are current, the city will maintain health insurance benefits during period of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee. The city is obligated to reinstate employment benefits upon an employee's return to work.

The city has the right to recover from the employee all health insurance premiums paid by the employer during the unpaid leave period if the employee fails to return to work after leave. In the event that an employee is unable to pay his/her portion of premiums during the time of unpaid FML, the city may deduct any unpaid premiums from the employee's pay upon return to work, subject to FLSA restrictions. Employees who fail to return to work because they are unable to perform the essential functions of their job, because of their own serious health condition, or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FML under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

#### Workers' Compensation While on FMLA

Workers' Compensation Injury/Illness generally meets the criteria for a serious health condition, therefore the workers' compensation absence and the FMLA leave entitlement will run concurrently.

### **G. AMERICANS WITH DISABILITIES POLICY**

#### **Purpose**

The purpose of this policy is to provide a policy in compliance with 42 U.S.C. 12101 et. seq.: The Americans with Disabilities Act (ADA) as amended. The city is committed to the fair and equal employment of individuals with disabilities under the ADA. It is the city's policy to

provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the city.

The city prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

### **Eligibility**

The ADA policy applies to any qualified individual with a disability who can perform the essential functions of the job with, or without, a reasonable accommodation.

#### **Disability**

“Disability” refers to a physical or mental impairment that substantially limits one or more major life activities. A “qualified person with a disability” means an individual with a disability who has the requisite skills, experience, and education for the job in question, and who can perform the essential functions of the job with or without reasonable accommodation.

### **Reasonable Accommodation**

The city will seek to provide a reasonable accommodation for a known disability or at the request of an individual with a disability. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job and do not place undue hardship on the city.

### **Essential Job Functions**

For each position, the job description typically will identify essential job functions. The city mayor or designee generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An applicant’s or employee’s questions about a job’s requirements should be directed to the city mayor, or designee.

### **Requesting a Reasonable Accommodation**

An applicant or employee with a disability is responsible for requesting an accommodation from the city mayor, or his/her designee, or the supervisor, and engaging in an informal process to clarify what the applicant or employee needs, and to identify possible accommodations. The city will inform the applicant or employee of his/her rights under the ADA and document the interactive process discussions.

An applicant or employee may be required to provide documentation from an appropriate professional, such as a doctor or a rehabilitation counsellor, concerning the applicant's disability and functional limitations. If an applicant or employee disagrees with the result of the medical examination, the applicant or employee may request a second examination performed and paid

for by the applicant or employee. In the event of a disagreement in the two previous medical opinions, a third opinion may be obtained with both parties sharing the cost of the examination.

The applicant or employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. Typically, the city mayor, or designee will work with the applicant or employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the applicant or employee to complete the hiring process or perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the city and the individual. While an individual's preference will be considered, the city is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the city. The city mayor, or designee, will provide notification in writing of denial based on undue hardship. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility or department at which the accommodation is to be made, the number of employees at the facility or in the department, the total number of employees of the organization, and the type of operation.

### **Safety**

All employees are expected to comply with all safety procedures. The city will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the city mayor, or designee in consultation with the department head, and will be based on factual, objective evidence. A written copy of the determination will be given to the applicant or employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

### **Confidentiality**

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

### **Complaint Procedure**

It is the policy of the city to prohibit any harassment of, or discriminatory treatment of, applicants or employees on the basis of a disability for requesting a reasonable accommodation. If an individual feels he or she has been subject to such treatment or has witnessed such treatment, the situation may be reported to any supervisory employee of the city, including the city mayor.

The city's policy prohibits retaliation against an applicant or employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an applicant or employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an applicant or employee feels he or she has been retaliated against, the situation may be reported to any supervisory employee of the city, including but not limited to the city mayor and elected officials.

## **H. MILITARY LEAVE**

Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee's seniority, status and pay will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be sent.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment.

The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

## **I. MILITARY RESERVE DUTY LEAVE**

Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the city the dates for training and travel time in advance. After the twenty (20) working days (or 160 hours) of full compensation, the city will not provide partial compensation to its employees while under competent orders. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

**J. JURY SERVICE LEAVE**

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the city during jury service, and any money received by the employee for jury duty shall be given to the City Recorder for deposit in the payroll account.

**K. EDUCATIONAL LEAVE**

An educational leave of absence with or without pay may be granted to an employee not to exceed twelve (12) months. This leave must be approved by the City Council. Request shall be submitted in writing, stating reason for the request, the date the requested leave will begin, and the probable date of return.

**L. DEATH OF AN EMPLOYEE**

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, plus an additional two weeks full pay. Further, his/her beneficiary shall be given complete assistance by the Recorder in settling pension, life and hospital insurance benefits.

**M. RETIREMENT SYSTEM**

Full time employees, of the City of Lafayette, shall be eligible for retirement benefits under the Tennessee Consolidated Retirement System.

**N. HOSPITALIZATION INSURANCE**

Employees of the City of Lafayette are covered under a hospitalization and life insurance policies as selected by the City Council. The percentage of the City's participation in the premium of the policy shall be set by the City Council.

**O. LIFE INSURANCE**

Municipal government employees are covered under a life insurance policy as selected by the City Council. The percentage of the City's participation in the premium of the policy shall be set by the City Council.

**P. OCCUPATIONAL DISABILITY**

All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Worker's Compensation Law.

An employee of the city who suffers injury or illness as a result of a work related accident or condition shall receive compensation during the period of illness or injury by the State Compensation Insurance Fund in accordance with the Tennessee Worker's Compensation Act. Worker's compensation pays an employee 66.67% of their weekly salary once the employee has been disabled for more than seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury. If the employee is disabled for fourteen (14) days or more, worker's compensation will pay the employee retroactively from the first full day of absence from work up to the return date to work. Employees receiving worker's compensation payments may not supplement their pay with accrued paid leave.

Employees shall report any injury or illness incurred in, or arising out of, the course of their employment, however minor, to the supervisor. Failure to make such a report may disqualify the employee from receiving Workers Compensation benefits. The employment of an injured employee, who is unable to return after a period of six (6) months may be reassessed by the

Mayor, at which time a determination regarding his/her employee status will be made. Where applicable, workers' compensation leave will run concurrently with FMLA. The employee shall continue to accrue sick leave and vacation leave at the employee's regular rate while he/she is on occupational disability or injury leave.

When an employee is injured on the job, the Recorder shall immediately submit an accident report to the City's Insurance Carrier and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the City Recorder.

In the cases where occupational disability to an employee occurs and the employee has been reported as occupationally disabled for a period of thirty (30) calendar days, the supervisor shall review the progress of the case and make recommendations to the Mayor as they deem advisable.

Occupational disability leave shall not be extended beyond six (6) months unless authorized by the City Council. Extensions shall not be extended for any period in the excess of three (3) months at any one time and shall not exceed a total of twelve (12) months from the day following the injury. Should an employee be unable to return to work within twelve (12) months from the day following the date of the injury, the employee may be subject to separation.

In all cases of occupational disability the responsibility of determining the character, degree of potential duration of an injury shall rest with the licensed, practicing medical doctor(s) designated by the City. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the Board of Mayor and Council.

## **SECTION VI – MISCELLANEOUS POLICIES**

**A. SOLICITATION**

The City believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

**B. PERSONAL TELEPHONE CALLS**

The use of the office and/or personal telephones during regular work hours for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged.

**C. NARCOTICS AND INTOXICATING LIQUORS**

**1. PURPOSE OF DRUG TESTING PROGRAM - NOTICE**

a. The City of Lafayette has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

b. The City and its employees may be subject to liabilities if the City fails to address and ensure that employees can perform their duties without endangering themselves or the public.

c. There is sufficient evidence to conclude that the use of illegal drugs/alcohol; drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the Municipality is a crime in this jurisdiction and clearly unacceptable.

Therefore, the City of Lafayette has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

**2. GENERAL RULES**

a. Municipal government employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take prescription medicine shall notify his/her immediate supervisors of the medication prescribed and the nature of the illness or injury if it may pose a safety risk.

- b. Municipal government employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on municipal government property or in the city vehicles.
- c. All property belonging to the Municipality is subject to inspection at any time without notice as there is not expectation of privacy.
  - 1. Property includes, but is not limited to, vehicles desks, containers, files and storage lockers.
  - 2. Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the Mayor) and in the presence of the employee.
- d. Municipal government employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.
- e. Failure to comply with the intent or provisions of this general order may be used as ground for disciplinary action.

### **3. DRUGS TO BE TESTED FOR**

When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drug groups. This list is not intended as an exhaustive inventory of every drug to possibly be tested for. The selection of drugs to be tested for will be based upon known abuse in the community and the ability of each drug to affect job performance.

- a. Alcohol (ethyl)
- b. Amphetamines (e.g. speed)
- c. Barbiturates (e.g. Amobarbital, Butobarbital, Phenobarbital, Secobarbital)
- d. Cocaine
- e. Methaqualone (e.g. Quaalude)
- f. Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphine, Hydrocodone)
- g. Phencyclidine (PCP)
- h. THC (Marijuana)

### **4 PRIOR NOTICE OF TESTING POLICY**

The Municipal government shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

- a. The need for drug and alcohol testing;
- a. The circumstances under which testing may be required;
- b. The procedures for confirming an initial positive test result;
- c. The consequences of a confirmed positive test result;
- d. The consequences of refusing to undergo a drug and alcohol test;
- e. The right to explain a positive test result and the appeal procedures available; and,
- f. The availability of drug abuse counseling and referral services

## **5. CONSENT**

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those Municipal government officials with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- a. The procedure for confirming an initial positive test result;
- b. The consequences of a confirmed positive test result;
- c. The right to explain a confirmed positive test result and the appeal procedures available; and,
- d. The consequences of refusing to undergo a drug and alcohol test.

## **6. JOB APPLICANT TESTING: GENERAL STANDARD**

Applicants for all classes of employment with the city will be required to undergo a drug and alcohol test after a conditional offer of employment and prior to their final appointment.

## **7. CURRENT EMPLOYEE TESTING; GENERAL STANDARD**

Only employees of the city holding safety sensitive positions are subject to random drug testing. Random testing shall be unannounced. Every employee in the random testing pool has an equal chance of being chosen for testing every time a random selection is drawn. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy construction equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the city to annually perform random tests for drugs on at least 50 percent of the total number of drivers required to possess or obtain a commercial driver's license (CDL).

The Municipal government may require a current city employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances that constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

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

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

## **8. REFUSAL TO CONSENT: APPLICANT**

A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the city.

## **9. REFUSAL TO CONSENT: EMPLOYEES**

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

## **10. CONFIRMATION OF TEST RESULTS**

An employee or job applicant whose drug test yields a positive result shall be given a second test using a gas chromatography/mass spectrometry (gc/ms) test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head or designated alternate. The letter of notification shall identify the particular substance found and its concentration level.

An employee or applicant whose second test contradicts the original positive test results may, at the employee's or applicants own expense, and have a third test conducted on the same sample at a laboratory selected by the Municipal government.

## **11. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES**

If a current employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions. No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the Municipality, and thereafter refrain from violating the City's policy on drug and alcohol abuse.

## **12. THE RIGHT TO A HEARING**

If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the Municipality. The employee must make a written request for a hearing to the appropriate department head or designated alternate within (7) days of receipt by the employee of the confirmation of the test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

- a. The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and
- b. The employee's drug test results are accurate.

Within seven (7) days following the close of the hearing, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

### **13. MANDATORY EMPLOYEE ASSISTANCE PROGRAM REFERRAL**

Upon the first confirmed determination that an employee is under the influence of drugs or alcohol, the City shall refer the employee to an Employee Assistance Program (EAP) for assessment, counseling, and rehabilitation. Participation in an EAP is voluntary and no disciplinary action may be taken against an employee for failure to begin or complete an EAP program. Disciplinary action based on a violation of the City's drug and alcohol policy is not automatically suspended by an employee's participation in an EAP and may be imposed when warranted.

### **14. CONFIDENTIALITY OF TEST RESULTS**

All information from an employee's or applicant's drug test, and need to know, are to be informed of test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.

### **15. LABORATORY TESTING REQUIREMENTS**

All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the City. To be considered as a testing site, a medical facility or laboratory must submit in writing, a description of the procedures that will be used to maintain test samples. This submission should be maintained by the City's Recorder. Factors to be considered by the City in selecting a testing facility include:

- a. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering.
- b. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results.
- c. Chain-of-Custody procedures which ensure proper identification, labeling and handling of test samples; and
- d. Retention and storage procedures which ensure reliable results on confirmatory test of original samples.

## **D. FIGHTING, HORSEPLAY, DAMAGING MUNICIPAL GOVERNMENT**

Fighting, horseplay, and intentionally defacing or damaging city property is not permitted. Employees engaging in these activities will be subject to disciplinary action which could include discharge.

**E. GARNISHMENT**

An employee who is garnished for more than one indebtedness (with the exceptions of child/spousal support orders) within a twelve (12) month period may be subject to disciplinary action in accordance with the following schedule:

First Offense -	Oral Reprimand
Second Offense -	Written Reprimand
Third Offense -	May be discharged in accordance with the discipline and dismissal policy.

**F. TRIP APPROVAL**

All out-of-town meetings, in-service training, conventions and etc. which are to be attended by employees of the City shall have prior written approval by the Mayor or designee. Failure to receive said prior written approval can result in loss of pay for that amount of time expended on the trip and/or loss of expense reimbursement.

**G. REIMBURSEMENT**

All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior approval of the Mayor or designee. Mileage shall be reimbursed at the current “state rate” for mileage. Food reimbursement shall be at a rate set by the City Council. Any additional expense shall be approved by the Mayor or designee.

**H. USE OF CITY VEHICLES AND EQUIPMENT**

All city vehicles and equipment are for official use only. Drivers and/or operators must have a valid Tennessee Driver’s License and be approved by their supervisor or the Mayor.

**I. HARASSMENT**

The city is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the city to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general

public and to provide for the efficient and effective operation of the city's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information, or any other basis protected by law. This policy applies to all City of Harriman employees, elected officials, appointed officials, regular part time/temporary employees, and contractors/vendors.

The city will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
  - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
  - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
  - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
  - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).

Under no circumstances are the following items permitted on city property, including city-owned parking areas, except when issued or sanctioned by the city for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. knuckles; or
- d. other objects carried for the purposes of injury or intimidation.

Charges of violence and harassment may be reported to any supervisory employee of the city, including the Mayor. The city will promptly investigate reports of workplace violence including suspicious individuals or activities. The Mayor, or designee, is charged with investigating all cases of workplace violence and harassment.

Depending on the severity of the charges or whether a crime is committed, the Mayor may request that law enforcement provides assistance or assume responsibility for the investigation.

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. All employees are required to assist in the course of the investigation by providing testimony, statements and evidence, as required. Failure to cooperate may result in disciplinary action.

Copies of the investigative report with recommendations for appropriate action will be turned over to the Mayor for further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors or the Mayor before the situation escalates into potential violence.

The city is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation.

False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action.

## **SEXUAL HARASSMENT**

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women. An employee who feels he/she is subjected to sexual harassment should immediately contact an administrative person with whom the employee feels the most comfortable. The Mayor, or designee, is the person the city designates as the investigator of sexual harassment complaints against employees.

In the event the harassment complaint is against the Mayor, the investigator shall be the City Attorney or independent outside counsel appointed by the City Council, or provided through the city employment practices liability insurer.

### **Purpose**

The city will take immediate steps to stop such harassment when it occurs. This policy applies to all officers and employees of the city including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, and volunteers or employees working under contract for the city.

### **Definitions**

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. sexual harassment or unwelcome sexual advances;
2. requests for sexual favors;
3. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. explicit or implied job threats or promises in return for submission to sexual favors;
5. inappropriate sexually-oriented comments on appearance;
6. sexually-oriented stories;
7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, and Internet materials)

### **Making harassment complaints**

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. the employee's immediate supervisor,
2. a department head,
3. the City Recorder,
4. the Mayor,
5. the city attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people committing the alleged harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

### **Reporting and investigating harassment complaints**

The Mayor, or designee, is the person the city designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against Mayor, the investigator shall be the city attorney, independent outside counsel appointed by the governing body, or provided through the city employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the city will separate the complainant and accused party for the duration of the investigation; upon the approval of the department head and Mayor;
2. the investigator will meet with the employee(s), any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information.
3. the investigator will immediately prepare a report of the complaint according to the preceding section and submit it to the Mayor;

4. the investigator will make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
  - a. verbal responses made to the investigator by the person complaining of harassment,
  - b. witnesses interviewed during the investigation,
  - c. the person against whom the complaint of harassment was made, and
  - d. any other person contacted by the investigator in connection with the investigation; and
5. within ten city business days (unless nature of investigation dictates a longer period is needed) of receiving the complaint, the investigator will prepare and present the findings to the Mayor in a report, which will include:
  - a. the written statement of the person complaining of harassment;
  - b. the statements of witnesses;
  - c. the written statement of the person against whom the complaint of harassment was made; and
  - d. all the investigator's notes connected to the investigation.

#### **Action on complaints of sexual harassment**

Upon receiving an investigation report of a harassment complaint, the Mayor and/or city attorney shall review the report. If the Mayor and/or city attorney determine that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), Mayor and/or city attorney shall, within a reasonable time, determine whether the conduct in question constitutes harassment. In making that determination, the Mayor and/or city attorney shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the Mayor and/or city attorney determine that the harassment complaint is founded, the city shall take appropriate disciplinary action against the guilty employee, consistent with its authority under the charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter

and circumstances surrounding the incident(s). A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action shall be consistent with the nature and severity of the offense and any other factors the Mayor believes relate to fair and efficient administration of the city. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the city. The city will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation. All other city employees are also warned not to retaliate in any way to the above mentioned parties. Any such retaliation or harassment will be dealt with immediately and may include disciplinary action.

If the employee complaining of harassment is not satisfied with the manner in which the city addressed the complaint, the employee shall be given an opportunity to present a written appeal. The written appeal must specifically identify what aspect of the city's response was not satisfactory to the employee and why it was not satisfactory. The appeal must be submitted to the Mayor within ten (10) city business days from the date on which the disciplinary action was rendered. The Office of the Mayor will render a written determination in the matter within ten (10) city business days from receipt of the appeal.

The decision of the Mayor will be final in all such matters. The Mayor has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the Mayor when he/she determines that a neutral third party is in the best interest of the City. In cases where the complaint is filed against the Mayor, a neutral third party, appointed by the City Council, shall be used as a final decision-maker.

In cases where harassment is committed by a non-employee against a city employee in the workplace, the Mayor shall take whatever lawful action is necessary against the non-employee to bring the harassment to an immediate end.

The City Council may discipline an elected official or appointed board member in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

## **Employee Obligation**

Employees are obligated to report instances of all forms of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action.

**J. POLITICAL ACTIVITY**      Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all election.

Municipal officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no municipal officer or employee shall solicit political campaign contributions or engage in or actively participate in any municipal political campaign. These restrictions shall not apply to elective officials.

**K. PERSONNEL RECORDS**

Personnel records for each employee are kept on file and maintained by the payroll clerk. Any change of address, telephone number, marital status, draft status, number of dependents, or education completed should be turned in to the supervisor for transmittal to the personnel section.

The payroll clerk also maintains the vacation, pension, retirement, and sick leave records for each employee. The personnel section will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available.

**L. STATEMENT OF UNDERSTANDING**

Each employee shall sign a statement that he/she has read and understands the Personnel Policy of the City of Lafayette. Said statement is to be placed in the employee's personnel file.

**M. MEAL PERIODS AND REST BREAKS**

All full-time employees shall have two fifteen (15) minute breaks. Break periods may be taken all at once or at different times. One (1) one-hour meal periods and breaks shall begin when employee leaves his/her worksite, and shall end upon return to worksite. Break and lunch period times shall be set by each department's supervisor for smooth operation in their department. If an employee is involved with and/or working on an emergency situation during the scheduled break time(s), then that break time(s) shall be rescheduled with the employee's supervisor. If an employee chooses not to take advantage of rest breaks, this time may not be accumulated and added to meal period or any type of leave. Rest breaks may not be used to alter arrival or departure time or used in conjunction with the meal period.

Police department schedules will be as follows:

Police department officers working on an eight (8) hour shift shall have two fifteen (15) minute breaks and one (1) forty-five (45) minute lunch period. Police department clerical personnel shall have one (1) fifteen (15) minute break and one (1) forty-five minute lunch period. Those employees on a twelve-hour work day schedule will get two forty (40) minute break or lunch periods. Break or lunch period times shall be set by each department's supervisor for smooth operation in their department.

Fire department office personnel, including Fire Chief, Assistant Chief, and clerical, working on an eight (8) hour shift, shall have two (2) fifteen-minute breaks and one (1) hour for lunch period. Break periods may be taken all at once or at different time.

## **SECTION VII – SEPARATIONS AND DISCIPLINARY ACTIONS**

## **TYPES OF SEPARATIONS**

All separations of employees from positions with the municipal government shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-offs, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation on a prorated/depreciated basis, as long as the deduction doesn't reduce the employee's final pay to below minimum wage.

### **A. RESIGNATION**

In the event an employee decides to leave the municipal government's employ, a two (2) week written notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all municipal government equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

If a former employee returns to municipal government employment, their status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

### **B. LAY-OFF**

The Mayor, upon approval from the City Council may lay off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold position in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regularly employees. In the event that a lay-off becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and then length of service in determining retention.

### **C. DISABILITY**

An employee may be separated for disability when he/she cannot perform required duties because of physical or mental impairment that cannot be accommodated without undue hardship or that poses a direct threat to the health and safety of others. Reasonable accommodations may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical

evidence acceptable to the City Mayor. The city may require an examination at its expense and performed by a licensed physician of its choice.

#### **D. RETIREMENT**

Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

#### **E. DEATH**

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by the law must be paid to the surviving spouse.

### **DISCIPLINARY ACTION**

Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

1. Oral reprimand
2. Written reprimand
3. Suspension
4. Dismissal

#### **1. ORAL REPRIMAND**

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions.

#### **2. WRITTEN REPRIMAND**

In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel folder.

### **3. SUSPENSION**

An employee may be suspended with or without pay by the Mayor, in writing.

### **4. DISMISSAL**

The City Council may dismiss an employee for just cause. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the Charter, ordinances, or these rules.

The employee will be furnished a written letter of notice from the employee's supervisor or department head containing the nature of the action, the reasons therefore, and the employee's rights to a pre-action hearing. The employee may be retained in current employment status, suspended with or without pay, demoted, or dismissed as deemed in the best interest of the city, for violation of policy, Human Resources regulations, misconduct, or for any other lawful reason.

In the case of dismissal, disciplinary actions will require a pre-action hearing with the City Council.

The written notice of such hearing must be personally delivered to the employee at least ten (10) calendar days before the hearing date. In those instances where the employee cannot be personally contacted, a registered letter will be mailed to the employee's last known address. The same time limitations shall apply. This notice shall contain a statement of the charges and the time, date and location of the hearing and the employee's hearing rights. The employee shall be given an opportunity to present reasons, either in person or in writing, why the proposed actions should not be taken. Private attorneys are not permitted to be present for, or participate in the pre-action hearing.

The City Council will render a written decision no later than ten (10) calendar days after the conclusion of the hearing with copies to the Mayor. The Mayor, or designee, shall deliver a copy of the decision to the employee. If the employee is unavailable or in unusual circumstances, the disciplinary action letter may be sent to the employee by certified, registered mail.

An employee may choose to waive their right to a pre-action hearing. A written waiver must be submitted to the City Council no later than one hour prior to the hearing. If the pre-action hearing

is waived, then the disciplinary decision will be based on the information gathered and/or received prior to the hearing. In waiving his/her right to a pre-action hearing, the employee also waives his/her right to appeal any disciplinary action issued for the infraction. Should an employee not submit a written waiver for the hearing and not attend the hearing, then the lack of attendance will be considered as a waiver. The decision of the City Council shall be final and binding on all parties involved, unless overturned or remanded by the chancery court on appeal.

## **GRIEVANCE PROCEDURES**

A grievance is defined as an employee's feeling of dissatisfaction, or any difference or disagreements or disputes arising between an employee and his supervisor and/or employer with some aspect of his employment, application or interpretation of regulations and policies, or some operational management decision affecting him. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall and any other related items.

Employee(s) who have a complaint or grievance may discuss the grievance with their immediate supervisor, a higher-level supervisor, and /or the department head. Every employee may present a complaint of grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion or reprisal.

Steps of the grievance procedure are as follows:

STEP ONE: The employee makes an oral or written presentation of the complaint or grievance to the immediate supervisor. It shall be the supervisor's responsibility to promptly consider and take action. The supervisor shall inform the employee of the decision and any action taken shall be taken within 72 hours if appropriate and if the supervisor has the authority. The supervisor shall prepare a written report of the complaint or grievance and provide a copy of it to the department head. Any supervisor in the chain of command shall attach his/her recommendation regarding the unresolved complaint or grievance if it proceeds to a higher level. No supervisor may hold a complaint longer than 72 hours without forwarding it to the next supervisory level.

STEP TWO: If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding an employee must reduce the complaint or grievance to writing and request that the written statement be delivered to the Mayor. If an employee wishes a hearing, the Mayor will accommodate the employee. Upon hearing the grievance the Mayor must provide a written response to the employee within three days of the hearing (72 hours).

STEP THREE: If the grievance is not resolved with the Mayor, the employee may request in writing a hearing with the City Council. The City Council shall have fourteen (14) calendar days to schedule the hearing after which, the City Council shall provide a written response to the employee with copies to the Mayor and immediate supervisor. Every attempt will be made to resolve the employee's grievance.

## **SECTION VIII – AMENDMENT OF PERSONNEL RULES**

### **A. AMENDMENTS**

Amendments or revisions of these rules may be recommended for adoption by the Mayor. Such amendments or revisions of these rules shall become effective after approval by ordinance of the City Council.

### **B. SEVERABILITY**

Each section, subsection, paragraph, sentence and clause of this Policy document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these rules, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

### **SPECIAL NOTE**

These personnel policies are believed to be written within the framework of the Charter of the City of Lafayette but in case of conflict, the Charter takes precedence.

**Acknowledgement of Receipt**

**City of Lafayette Resources Regulations, Revision November 7, 2017**

This is to acknowledge that I have received a copy of the city Human Resources Regulations, and understand that it outlines certain the city policies, procedures and benefits as may exist at the time of publication. I understand that it is my responsibility to familiarize myself with all information within the Human Resources Regulations.

I understand that the Human Resources Regulations do NOT constitute a contract of employment; rather it is merely a statement of policies and procedures. I understand that the contents of the Human Resources Regulations do not confer any rights on or promises to me or guarantee my employment for any period of time. I understand that the city can alter, eliminate, or otherwise change any policy, information, or benefit described in the Human Resources Regulation by action of the governing body. I understand that it is my responsibility to review the manual periodically to observe any recent changes.

I understand that nothing in the Human Resources Regulations or any summary brochure or employee handbook should be deemed to be a promise by the city to provide any benefit. Rather, the city reserves the right to alter or eliminate any benefit, without notice, at any time.

I understand that the Human Resources Regulations replaces (supersedes) any and all prior city policies and any and all prior city Human Resources regulations, employee handbooks or manuals, and any information contained in any such prior policy, handbook, or manual is no longer in effect. I understand that the Human Resources Regulations are the property of the city and is to be returned to the city when employment with the city ceases.

As an applicant or an employee, I understand and agree that all city property must be returned upon separation from employment.

By signing below, I understand and agree that the city may deduct from my final paycheck any amount due (on a depreciated/prorated basis) for failure to return city property as long as the deduction(s) do not reduce final pay to below minimum wage.

\_\_\_\_\_  
Employee Name

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

\_\_\_\_\_  
Date