

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL POLICIES.
2. USE OF INTERNET AND ELECTRONIC MAIL.

CHAPTER 1

PERSONNEL POLICIES

SECTION

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4-101. Personnel policies. (1) Purpose and objectives. The main purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among town government employees fostered by a systematic application of good procedures in personnel administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, gender, age, national origin, creed, ancestry, and disability.

The Town of New Tazewell is an at-will employer and nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees.

(2) Coverage. These rules and regulations shall cover all employees in the town service unless specifically exempt by this document, the town charter, and/or the ordinances of the town without regard to race, religion, national origin, political affiliation, sex, age, or disability. Employees/positions not covered under this policy are as follows:

- (a) Elected officials;
- (b) Members of appointed boards or commissions;
- (c) Town attorney;

- (d) Consultants, advisors and independent contractors;
- (e) Volunteer personnel;
- (f) Town mayor;
- (g) Town judges. (Ord. #2010-282, March 2010)

4-102. Types of employees. (1) Full-time. Full-time employees are individuals employed by the town who regularly work a minimum of forty (40) hours per week on a year round basis.

(2) Part-time. Part-time employees are individuals employed by the town who regularly work less than forty (40) hours per week on a year round basis.

(3) Temporary/seasonal. Employees are considered seasonal or temporary when hired for a stated or specific term of employment of less than one (1) year. (Ord. #2010-282, March 2010)

4-103. Employment. (1) Policy statement. The primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities.

(2) Application and background check. (a) All persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the recorder's office during regular office hours only.

(b) All regular, full-time and part-time external candidates for employment of the Town of New Tazewell, as well as potential re-hires with a break in service, must undergo a pre-employment background investigation. This includes but is not limited to:

- (i) Social Security verification;
- (ii) Prior employment verification;
- (iii) Education verification (highest level);
- (iv) Residence verification;
- (v) Criminal background investigation; local, state and federal;
- (vi) Sexual offender database search.

(c) In addition, candidates for designated positions may also be subject to the following additional types of checks, depending on the requirements of the position:

- (i) Motor vehicle record;
- (ii) Professional reference checks;
- (iii) State/federal civil litigation, lien and judgments;
- (iv) Credit verification;
- (v) Corporate filing and status search;

(vi) Professional licensing check.

(3) Interviews. All appointments will be preceded by an interview with the designated hiring authority.

(4) Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility examination related to the essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.

(5) Appointments. All appointments shall be made in accordance with lawful provisions of the municipal charter if there are applicable provisions in the charter.

(6) Work week/work periods. Pursuant to the Fair Labor Standards Act (FLSA), a work week is a regular recurring period of one hundred sixty eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods. Generally, five (5) days per week constitute a work week for regular employment. Public safety employee schedules may entail more or less days in the work week. As necessary, schedules will vary in departments for the smooth operation of the local government. A standard work week is scheduled between 8:00 A.M. Monday through 5:00 P.M. the following Friday.

(7) Hourly rates. Employees paid on an hourly basis are paid for all time actually worked.

(8) Minimum wages. In accordance with the FLSA, no employee, whether full-time, part-time, or probationary period employee, will be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

(9) Overtime. The Fair Labor Standards Act (FLSA) requires all employers to compensate their FLSA non-exempt employees with time and a half for all hours worked over forty (40) in the work week. Compensable time includes all time in which the employee is required to work for the local government. Generally, uninterrupted lunch periods, annual and/or sick leave, compensatory time and any time in which the employee is not working will not be considered working time and will not be counted toward overtime.

When it becomes necessary for an employee to work overtime hours or return to duty from off-duty hours due to an emergency, regular employees, part-time employees, and temporary employees shall be paid according to the prevailing salary schedule. Applicable overtime work will be compensated according to the FLSA provisions at a rate of one and a half (1 1/2) times the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one and a half (1 1/2) times the hours worked in accordance with the FLSA. Generally, overtime work must be authorized by the mayor.

In pursuance with FLSA, compensatory time may be given in lieu of overtime. All overtime will be paid in accordance with the FLSA.

(10) Compensatory time. Compensatory time is time off with pay earned by an employee when compensable overtime hours are worked and not compensated in cash.

Maximum accrual on compensatory time is two hundred forty (240) hours.

The town may request that employees use their compensatory time within a specified time period. Additionally, the town may require employees to use compensatory time before using annual, sick or other types of paid leave.

Supervisors are required to keep regular and accurate records of all overtime hours worked.

(11) Call back. When an employee is called back to work, he or she shall be guaranteed a minimum of two (2) hours of pay at his/her applicable wage rate. (Ord. #2010-282, March 2010)

4-104. Leave policies. (1) Paid holidays. The following days are considered paid holidays for all full-time employees. These days will be taken without loss of vacation credit, except for those employees required to maintain operations who receive holiday pay for working on such days.

Eligibility: All regular full-time employees are eligible for paid holidays.

The paid holiday schedule is as follows:	
New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11 (option)
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Day after Thanksgiving (option)
Christmas Eve	December 24
Christmas	December 25
*Holidays marked "option" will be at the discretion of the department with town approval.	

The Town of New Tazewell reserves the right to revise the holiday schedule at any time.

When a paid holiday falls on Saturday, the holiday will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed the

following Monday. Where possible, every full-time town employee will observe approved holidays.

If the holiday falls on a day when the employee is scheduled to work fewer hours than the holiday credit hours the employee receives he/she may take the remaining hours another day.

Example: The chart says the employee will receive five (5) hours of holiday credit, but on the day of the holiday the employee is only supposed to work three (3) hours. The employee is still "owed" two (2) hours and he/she needs to take them on another day within the same pay period.

If the holiday falls on a day when the employee is scheduled to work more hours than the holiday credit you will receive, you need to "make up" those hours.

Example: The chart says the employee will receive five hours of holiday credit, but on the day of the holiday the employee is supposed to work six (6) hours. For that day the employee is paid for five (5) hours, but he/she missed six (6) hours of work. The employee will need to work the hour missed. The employee may either work an additional hour on another day in the same pay period, or he/she may choose to use vacation leave for that hour.

The employee will need to arrange any schedule changes with his/her supervisor and receive advance approval.

(2) Vacation leave. Vacation leave is a personal leave benefit granted to full-time employees as part of the town's benefits package. Vacation leave will be granted to regular full-time employees, but may not be taken until the employee has completed one (1) year of service. Vacation leave is to be taken following the period of time in which it is earned. Vacation time will be calculated according to the following schedule:

(a) Eligibility. All regular full-time employees are eligible for vacation.

(b) Waiting period. All new employees are required to wait one (1) full year before earning vacation leave.

(c) Compensatory time. If the employee has accrued compensatory time, all compensatory leave shall be used before vacation leave begins.

Vacation leave will be calculated according to the following schedule:

FULL-TIME EMPLOYEES--VACATION LEAVE SCHEDULE		
Years of service	Hours earned per year	Days per year
1-5	40 hours	5 days
6-10	80 hours	10 days
11-20	120 hours	15 days
All over 20	160 hours	20 days

For leave purposes, the service an individual has to his/her credit includes all time spent as a full-time employee of the municipality.

Vacations will be scheduled in advance for the mutual convenience of the employee and the town government so proper adjustments can be made in the work schedules. Department heads preparing vacation schedules will give choice of dates based on seniority of the personnel in their departments, and no employee may begin his/her annual leave until his/her request has been approved by the department head.

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

Legal holidays falling within a vacation period are not to be counted as vacation days. Employees eligible for more than two (2) weeks' vacation, have the option of taking two (2) weeks' vacation time and/or the remainder earned time in vacation time or in pay, which must be approved by the department head. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no annual leave accumulates. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

(3) Sick leave. (a) Sick leave is a benefit granted to full-time employees as part of the town's benefits package. Sick leave is not considered as a right that the employee may use at his discretion, but rather as a privilege. Sick leave is a benefit to be used for legitimate sick leave purposes. Sick leave is not an employee entitlement but a benefit that is employer owned.

(i) Eligibility. All regular full-time employees are eligible for sick leave.

(iii) Waiting period. Employees are required to successfully complete their probationary period before being eligible to use sick leave.

(iii) Compensatory time. If the employee has accrued compensatory time, all compensatory leave shall be used before sick leave begins.

(b) Sick leave is a period of absence with pay granted when the employee is unable to work due to sickness or injury. Sick leave with pay may be granted for the following reasons:

(i) Employees are incapacitated by sickness or a non-job-related injury, or they are seeking medical, dental, or optical diagnosis and treatment.

(ii) Necessary care and attendance of a member of the employee's immediate family and approved by a department head and town mayor.

(iii) Necessary care and attendance of a member of the employee's immediate family is approved by the employee's department head. Immediate family members are: husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather, grandmother, legal foster parents, children and step-children.

(c) When an employee is absent due to reasons as provided in this section in order to be granted sick leave with pay, he/she must notify his/her immediate supervisor prior to the beginning of the scheduled work day of the reason for absence. The town's department heads may require a doctor's certificate or other satisfactory evidence that absences are properly chargeable as sick leave.

(d) Health care provider's statement. To prevent abuse of the sick leave privilege, department heads 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) work days may also require a doctor's certificate to return to work (if, in the opinion of the immediate supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled days off. 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 fifteen (15) days during any calendar month, no sick leave accumulates.

An eight (8) hour absence from work while on sick will constitute a charge of one (1) day of sick leave for all employees.

After employees have exhausted their accrued sick leave, leave (with or without) pay may be granted at the discretion of the town administrator as a reasonable accommodation to disabled people. Also, employees may be placed on special leave without pay, or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a position for which they are qualified, with the approval of a jurisdictional elected official or a department head.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. An employee, upon exhausting all earned sick leave, may use earned vacation leave or take leave without pay. Only the governing body, by a majority vote in a regular meeting, may make exceptions to leave policy due to unusual and/or extenuating circumstances.

An employee who retires under the town retirement plan shall have all unused sick leave credited as additional time worked when calculating the employee's retirement benefits.

(e) Full-time employees—sick leave schedule. Each regular employee will accrue sick leave at the rate of one (1) day (eight (8) hours) per month. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains. Employees may accumulate thirty (30) sick days for use; any days over thirty (30) will be applied to retirement.

Years of service	Hours earned per year	Hours earned per month
n/a	96	8

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

Upon retirement under the Tennessee Consolidated Retirement System, an employee's accumulated sick leave will add retirement credit. Each twenty (20) days of accumulated sick leave will add one (1) additional month of retirement credit to the employee's total retirement service credit. This is subject to change. Check with TCRS for updates to this policy.

(4) Military leave. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding twenty (20) working days in any one (1) calendar year.¹ Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veterans' Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act.²

(5) Jury service leave. When an employee receives a summons to report for jury duty, the employee is required to provide a copy of the summons to his/her immediate supervisor within one (1) business day of receiving the summons. Upon presentation of the summons, the employee will be excused from employment for the day or days required of the employee while serving as a juror in any court of the United States or the State of Tennessee; provided,

¹State law reference
Tennessee Code Annotated, § 8-33-109.

²State law reference
Tennessee Code Annotated, § 8-33-101, et seq.

that such employee's responsibility for jury duty exceeds three (3) hours during the day for which excuse is sought.

Upon release from jury duty during the employee's normal working hours, he/she is expected to return to duty. Employees will receive full pay during jury service. The town will pay the employee's usual compensation but may deduct an amount equal to the fee or compensation the employee received for jury service.

If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, the employee is also excused from employment as provided by this section for the shift immediately preceding the employee's first day of service on any jury trial. After the first day of service, when the employee's responsibility for jury duty exceeds three (3) hours during a day, then he/she is excused from the next scheduled work period occurring within twenty-four (24) hours of jury service. Any question concerning the application of the provisions of this subsection to a particular work shift or shifts will be conclusively resolved by the trial judge of the court to which the employee has been summoned.

(6) Court duty leave. An employee who is summoned or subpoenaed to appear because of the employee's duties for the town will be granted leave with pay upon presentation of such summons or subpoena. When a town employee is requested by the office of the town attorney to appear in court on behalf of the Town of New Tazewell, the employee must appear and the employee will have the same benefits as though the employee was summoned or subpoenaed. When an employee has been granted leave for court attendance and is excused by proper court authority, the employee must report back to the employee's place of duty.

(7) Bereavement leave. It is the policy of the town to provide all regular, full-time and part-time employees time off without loss of pay due to the death of an immediate family member as defined below.

An employee who is absent during his/her regularly scheduled work week due to the death of an immediate family member will receive payment for reasonable and customary days absent, not to exceed three (3) regularly scheduled work days. Immediate family includes:

- (a) Spouse;
- (b) Child, step-child;
- (c) Parent, step-parent, foster parent, parent-in-law;
- (d) Sibling(s); and
- (e) Grandparents and grandchildren.

In addition to the three (3) regularly scheduled work days, sick leave not to exceed two (2) days may be granted at the discretion of the appropriate approving authority in the instance of death of one (1) of the immediate family members listed above.

Employees will be granted this leave without deduction from their vacation or sick leave balances.

The town mayor will be responsible for administering final approval on bereavement leave requests. Employees are required to submit, in writing a request to the town mayor and provide a copy of that request to their immediate supervisor and department head.

(8) Inclement weather leave. It is the town's intent to remain open through all weather situations unless determined that the essential functions of the town cannot be safely administered. This decision will be made by the town mayor and communicated via all supervisors.

However, when weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

(a) The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible.

(b) The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.

(c) The employer deducts the missed work day (or portion thereof) from accumulated vacation leave. Reporting this leave will follow the same requirements as other leave.

The policy is meant for those who are in immediate danger due to weather conditions only. Should any employee abuse this policy, he/she may be subject to disciplinary action. In situations where advanced notice of closure is known, the town mayor will communicate such closure via radio, newspaper, departmental memo, etc. (Ord. #2010-282, March 2010)

4-105. Benefits. A list of current benefits is available from the Town of New Tazewell. (Ord. #2010-282, March 2010)

4-106. Miscellaneous policies. (1) Attendance. Punctual and regular attendance is necessary for the town to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor prior to the beginning of the work day, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. An inappropriate pattern of absences will not be tolerated.

(2) Occupational safety and health.¹ The municipality shall provide job safety and health protection for all employees in accordance with the Occupational Safety and Health Administration (OSHA) Legislation (29 U.S.C. § 656, et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, § 50-3-101, et seq.).

¹OSHA Rules and Regulations for the Town of New Tazewell (and any amendments) are available in the office of the recorder.

- (3) Commercial driver's license. All employees that drive:
- (a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;
 - (b) A trailer with a gross weight of more than ten thousand (10,000) pounds;
 - (c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and
 - (d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.
- (4) Employee drug testing. (a) Safety-sensitive positions. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 C.F.R. part 199). Other employees may be subject to drug testing in accordance with the drug testing policy of the municipality.
- "Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy 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.
- (b) Types of tests. (i) Pre-employment. All employment applicants who have received a conditional offer of employment with the Town of New Tazewell must submit to a drug test before receiving a final offer of employment.
 - (ii) Transfer. Employees starting or transferring to a safety-sensitive position shall undergo drug testing. "Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy 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.
 - (iii) Post-accident/post-incident testing. Note: All employees are subject to post-accident drug testing.

Following any workplace accident (incident) determined by supervisory personnel of the Town of New Tazewell to have resulted in property or environmental damage or in personal

injury, including but not limited to a fatality or human injury requiring medical treatment, any employee whose performance either contributed to the accident (incident) or who cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident (incident) will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within thirty-two (32) hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by the same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of New Tazewell reserves the right to direct the Medical Review Officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(iv) Testing based on reasonable suspicion. Note: All employees are subject to reasonable suspicion testing.

A drug test is required for any employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent physical, behavioral or performance indicators of possible drug use. One (1) supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of New Tazewell making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the town mayor within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(v) **Random testing.** Only employees of the Town of New Tazewell holding safety-sensitive positions are subject to random drug testing. "Safety-sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, 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 Town of New Tazewell to perform annually random tests for drugs in accordance with DOT regulations for those positions requiring a Commercial Driver's License (CDL).

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced and occur with predictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the Town of New Tazewell may omit that employee from random testing or await the employee's return to work.

Positive results may result in disciplinary action, up to and including immediate termination of employment.

(5) Leave of absence (with or without pay). If the employee exhausts all his/her annual and sick leave and still needs time off for personal or health reasons, he/she may apply for a leave of absence for a period of up to three (3) months if he/she is a full-time employee. The request for leave must be given to the employee's immediate supervisor and the department director at least thirty (30) days prior to the start of the requested leave unless the leave is an emergency.

(6) Political activity.¹ No employee may participate in any campaign for an elective office, or campaign concerning any issue which may appear on an election ballot, during working hours or when on duty. No employee may participate in campaign activities while wearing a town uniform or driving a town-owned vehicle. Town employees are prohibited from using their employment status or official authority to influence voters while participating in political campaigns.

¹Municipal code reference

Use of municipal time, facilities, etc.: § 1-407.

Employees enjoy the same rights as other citizens to participate in political campaigns and to be a candidate for state or local political office. Any time off from work used to participate in political activities must be limited to earned days off.

There is no authorization for town employees to run for elective office with the Town of New Tazewell. Any employee who desires to run for a town office must terminate their employment with the Town of New Tazewell.

(7) Travel reimbursement. All trips that involve reimbursement and/or town government expense will not be undertaken without prior approval of the appropriate department head. Mileage, food, lodging, and other expenses are reimbursed at the same rate as the State of Tennessee.

(8) Driving records. Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must immediately, before reporting for duty the next work day, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the town. Periodic review of employees' driving records will be conducted by the town mayor to assure adherence to this policy.

(9) Solicitation. Unauthorized solicitation of employees on the premises is strictly prohibited. This prohibition applies both to employees and outsiders. Solicitation of gifts (for such occasions as resignations, retirements, weddings, and births) are considered authorized.

Contributions may be solicited on town property only with the permission of the town mayor. Miscellaneous solicitation of contributions within a single department may be made with the permission of the department head.

No pressure is to be placed on any employee to make any contributions.

(10) Personal communication.¹ Use of cellular phones/text messaging during regular work hours, except in emergency cases, is discouraged. Personal calls/text messages that must be made or received during business hours are permitted if they are held to a minimum and do not interfere with the employee's work. Personal communications should be made during breaks or lunch time when possible.

When using office phones, long-distance emergency calls must be billed to the caller's home phone number or reimbursed by the employee making the call. Excessive phone conversations on non-emergency matters may result in disciplinary action.

Employees shall not operate cell phones or text message while operating a vehicle on town business.

¹Municipal code reference

Personal communication: § 4-202(5).

(11) Fighting, horseplay, damaging town government property. Fighting, horseplay, and intentionally defacing or damaging town property may subject violators to disciplinary action.

(12) Non-Smoker Protection Act. The town complies with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and town-owned vehicles. All employees who operate town-owned vehicles are prohibited from smoking in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles.

(13) Misuse of town property. Misuse of town property violates the values of integrity, respect, and continuous improvement of the town. Misuse of property may include, but is not limited to, misusing or taking broad property or the property of others without permission, or misusing or misappropriating funds, misuse of copyrighted material, vandalism, embezzlement, using town resources/positions, business cards/identification/security badges for unauthorized business or personal reasons or personal gain. (Ord. #2010-282, March 2010, modified)

4-107. Workplace violence and sexual harassment. (1) General workplace harassment and violence.

(a) It is the policy of the Town of New Tazewell 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 local government's activities. The Town of New Tazewell will not tolerate 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.

(b) 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:

(i) 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.

(ii) Physical harassment. Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.

(iii) Visual harassment. Displaying derogatory or offensive posters, cartoons, publications or drawings.

(c) Under no circumstances are the following items permitted on local government property, including local government-owned parking

areas, except when issued or sanctioned by the local government for use in the performance of the employee's job:

- (i) All types of firearms, switchblade knives and knives with a blade longer than four inches (4");
- (ii) Dangerous chemicals;
- (iii) Explosives or blasting caps;
- (iv) Chains; or
- (v) Other objects carried for the purposes of injury or intimidation.

(d) Charges of violence and harassment may be reported to any supervisory employee of the local government, including the recorder or the mayor. 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 another professional provide assistance to the Town of New Tazewell and/or assume responsibility for the investigation. 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.

(e) Copies of the investigative report with recommendations for appropriate action will be turned over to the mayor as appropriate for further action. Disciplinary action may be taken against any employee who commits acts of workplace violence and harassment.

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

- (a) Sexual harassment or unwelcome sexual advances;
- (b) Requests for sexual favors;
- (c) Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- (d) Explicit or implied job threats or promises in return for submission to sexual favors;
- (e) Inappropriate sexually-oriented comments on appearance;
- (f) Embarrassing sexually-oriented stories;
- (g) Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
- (h) Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees. 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 is the person the local government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be a local government employee appointed by the Town of New Tazewell. (Ord. #2010-282, March 2010)

4-108. Separations and disciplinary actions. (1) Types of separations. All separations of employees from positions with the town will be designated as one (1) of the following types and will be accomplished in the manner indicated: resignation, layoff, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other town property in the employee's custody must be transferred to the department. Any amount due because of shortages will be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the town's employ, a two (2) week notice will 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 town 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 town employment, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time.

(3) Layoff. The department head, upon approval from the town mayor, may lay off an employee in town service when he/she deems it necessary by reason of a shortage of funds, abolishing a position, other material changes in the duties or organization of the employee's position, or related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service.

The duties performed by a laid-off employee may be assigned to other town employees who hold positions in the appropriate class. Temporary employees will be laid off before regular employees.

A laid-off employee who is reinstated as a town employee within ninety (90) days from the date he/she was laid off will be reinstated with full benefits as if he/she had not been laid off.

(4) Disciplinary action. All local government employees not under an employment contract for a specified time period are employees at-will of the local government. The local government reserves the right to discharge at-will employees for cause or for no reason, except that no employee will be discharged for reasons that are prohibited by state and federal law. There may be occasions when local governments take disciplinary actions short of termination against employees. These actions in no way create a property right in employment for at-will employees. (Ord. #2010-282, March 2010)

4-109. Amendments to the personnel rules. (1) Amendments. Amendments or revisions of these rules may be recommended for adoption by the town mayor. Amendments or revisions of these rules become effective upon approval by resolution of the board of mayor and aldermen.

(2) Severability. Each section, subsection, paragraph, sentence, and clause of this policy document is separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause does 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 will be deleted.

(3) Conflicting policies repealed. All town policies, ordinances or resolutions or department standard operating procedures or policies that conflict with the provisions of these policies are hereby repealed. If you notice an error in this document please contact the town mayor.

(4) Special note. These personnel policies are believed to be written within the framework of the Charter of the Town of New Tazewell but in case of conflict, the charter takes precedence.

These personnel regulations are for information only. This is not an employment contract. This document is a statement of current policies, practices, and procedures. Nothing in this document is to be interpreted as giving employees property rights in their jobs. These personnel policies, rules, and regulations may be reviewed periodically. The employer reserves the right to change any or all policies, practices, and procedures in whole or in part at any time, with or without notice to employees. (Ord. #2010-282, March 2010)

CHAPTER 2

USE OF INTERNET AND ELECTRONIC MAIL

SECTION

4-201. Policy.

4-202. Procedures.

4-203. Internet use form.

4-201. Policy. It is the policy of the Town of New Tazewell that all employees having global Internet access and e-mail privileges shall use such access only for official work in full compliance with this policy and the policies of the town. Each user must be aware of the risks related to Internet access and e-mail which cannot be eliminated but may only be managed through the exercise of prudence and caution. (Ord. #2010-292, Oct. 2010)

4-202. Procedures. (1) Use of the Internet/e-mail. Employees must be individually authorized to use the Internet and/or e-mail before doing so during working hours or while using any town equipment. No employee will be so authorized by the town until the employee has signed the Internet use form (see § 4-203).

(2) No e-mail message sent or received on town computers is personal or private; each is the property of the Town of New Tazewell. E-mail messages can be copied, distributed, discovered in litigation and used in disciplinary proceedings even if deleted by the recipient. Users have no expectation of privacy as to any e-mail message at any time.

(3) Principles of acceptable Internet and computer system use. (a) Use must be for legitimate work-related purposes only.

(b) Users shall respect the legal protections afforded by copyright and license laws for programs and data.

(c) Users shall identify themselves as employees of their department and the town when sending any e-mail message via the Internet.

(4) Unacceptable use of the Internet, e-mail, and the town's computer system. (a) Users shall respect the integrity of the town's computing system and shall not use it for unacceptable purposes or in an unacceptable manner as described below. It is unacceptable for a user to use, submit, publish, display, or transmit on the Internet, or any part of the town's computer system, any information which:

(i) Uses the system for any illegal purpose;

(ii) Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually-oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material, whether in the form of a "joke" or otherwise;

(iii) Violates or infringes on the rights of any other person, including the right to privacy; or

(iv) Modifies files or data belonging to other users without explicit permission to do so.

(b) No user, other than the town manager or the various department directors shall have authority to subscribe to any service for which a fee is charged.

(c) Users shall not use or develop programs that harass other users or infiltrate a computer or computing system or which seek to alter or damage the software components of a computer or computing system.

(5) Personal use. The prohibitions in this policy shall also not be construed to prohibit infrequent and brief use of the system for incidental personal matters by an employee during a meal or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two looking at the weather radar online provided, however, in no event shall any such limited personal use include any activity otherwise prohibited by this policy, e.g., visiting a sexually explicit site.

(6) No right of privacy--monitoring. (a) Pursuant to the Electronic Communications Act of 1986, 18 U.S.C. 2510, *et seq.*, notice is hereby given that there are no facilities provided by the town and its system for sending or receiving private or confidential electronic communications.

(b) Electronic mail, whether sent via the Internet or internally, may be a public record subject to public disclosure under the Tennessee Public Records Law¹ and may be inspected by the public. (Ord. #2010-292, Oct. 2010)

4-203. Internet use form.

ACKNOWLEDGEMENT

I hereby acknowledge that I have received and read a copy of the Town of New Tazewell's Policy for the Use of Internet and Electronic Mail. I understand that all e-mail communications systems are the property of the town, as is the information received from, transmitted by, or stored in these systems. I understand that, except with respect to certain content deemed confidential by state and federal law, I have no expectation of privacy in connection with any e-mail messages, the use of town

¹State law reference

Tennessee Code Annotated, § 10-7-512.

equipment, or the transmission, receipt, or storage of information in this equipment.

I acknowledge and consent to the town's monitoring my use of both Internet and Internet e-mail at any time the town deems it necessary in accordance with its policy. Monitoring may include reading and printing out all electronic mail entering, stored in, or disseminated by the Town of New Tazewell's system and equipment. I agree not to use a code, access a file, or retrieve any stored information unless authorized to do so. I understand that this consent is a condition of my employment and/or continued association with the town. I understand all the provisions specified in this policy. Further, I recognize that a violation of this policy may result in disciplinary action, including possible termination.

Employee Signature
Town of New Tazewell

Date

Department

(Ord. #2010-292, Oct. 2010)