

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

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#### CHAPTER 1

### PERSONNEL POLICY<sup>1</sup>

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**4-101. 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, sex, age, national origin, creed, and handicapping condition.

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.

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<sup>1</sup>Municipal code reference

Code of ethics: title 1, ch. 4.

(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 a 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. (1973 Code, § 1-701)

**4-102. 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 discrimination 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. (1973 Code, § 1-702)

**4-103. 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, religion, national origin, political affiliation, sex, age, or physical handicap.

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) Part-time employees paid by the hour or the day, and not considered regular.
- (8) Volunteer personnel appointed without compensation.
- (9) City judge. (1973 Code, § 1-703)

**4-104. 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. (1973 Code, § 1-704)

**4-105. Classification plan.** (1) 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.

(2) Composition of the classification plan. The classification plan shall consist of:

- (a) 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;
- (b) Class titles descriptive of the work of the class which identifies the class;
- (c) Written specifications for each class of performance; and,

(d) Physical standards for performance of the duties of the position.

(3) 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.

(4) 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.

(5) Use of the classification plan. The classification plan is to be used:

(a) As a guide in recruiting and examining candidates for employment;

(b) In determining lines of promotion and in developing employee training programs;

(c) In determining salaries to be paid for various types of work;

(d) In determining personal service items in departmental budgets; and,

(e) In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

(6) 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.

(7) 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.

(8) 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 of his/her decision and also the employee's rights to appeal the decision under the grievance procedures.

(9) Job descriptions. Job descriptions are of record in the city recorder's office. (1973 Code, § 1-705, modified)

**4-106. Compensation plan.** (1) 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.

(2) Pay scale.<sup>1</sup> There shall be an twelve (12) level pay scale.

(a) 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.

(b) 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 in pay. 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.

(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 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.

(d) 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.

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<sup>1</sup>The pay scale for employees (and all amendments) are available in the recorder's office.

(e) 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.

(f) 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.

(g) Seasonal employees. This rate will be set by the city council annually.

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

(3) Pay for part-time work. When an employment decision is for a part-time position, only the proportioned part of the rate for the time actually employed will be paid.

(4) 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. (1973 Code, § 1-706, as amended by Ord. #570, Oct. 2009, modified, and amended by Ord. #641, May 2013, Ord. #647, June 2013, and Ord. #673, June 2015)

**4-107. Employment.** (1) 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:

(a) The applicant declines an appointment when offered.

(b) The applicant cannot be located by the postal authorities. It shall be deemed impossible to so locate an applicant when a communication mailed at the last known address is returned unclaimed.

(c) The applicant moves out of Macon County.

(d) The applicant has an employment history of narcotics use or the excessive use of intoxicating liquors.

(e) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law.

(f) The applicant has made false statement of material fact on the application.

(g) The application was not filed within the period specified in the examination announcement or was not filed on the prescribed form.

(h) The applicant does not possess the minimum qualifications as indicated by the classification plan.

(i) Their application has been on file over twelve (12) months.

(2) Residency. All employees must reside within the boundaries of Macon County, Tennessee.

Residency may be waived if a qualified employee cannot be found for professional, technical and general classifications during emergencies. Employees residing outside the aforementioned county must sign a statement of intent to establish residency before the end of probation. If residency is not established within that time, the employee may be subject to dismissal.

(3) Physical examinations. Every prospective employee shall be given a physical examination by a licensed physician designated by the municipal government prior to the time he/she is hired, to determine if he/she meets necessary physical fitness standards. The cost of this physical examination shall be borne by the city. Applicants determined to be physically or mentally unfit for service shall not be considered for appointment.

All employees of the city may, during the period of their employment, be required by their superiors and with the approval of the mayor, to undergo periodic medical examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic medical examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the city.

When an employee of the city 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 five (5) 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 shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the city.

An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in accordance with these rules or separated from the municipal government service.

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

(5) Types of employees. (a) Regular full-time employee (per hour or per month). A regular full-time employee is a full-time employee paid an annual rate and who is subject to all conditions of employment and receiving all benefits. Regular employees serve a twelve (12) month probationary period, during which time they may be dismissed without recourse.

(b) Regular part-time employees. Regular part-time employees are employees who work a regularly scheduled shift each week that is less than forty (40) hours.

(c) Temporary employee and/or part-time employee. A temporary employee is an employee who works full-time but not exceeding twelve (12) months per term of employment and who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties but receiving no benefits except coverage under workers' compensation laws.

(d) Volunteer firefighters. Volunteer firefighters are appointed by the fire chief when necessary. Volunteers are compensated per fire call with no other benefits except coverage under the Volunteer Firefighter's Insurance Coverage Policy, as well as the city's workers' compensation policy.

(6) Appointments, promotions, 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 (4) categories. They are:

(a) Original appointment. When a non-employee passes all the requirements of employability and is offered employment.

(b) 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.

(c) 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.

(d) 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 effecting 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 percentage increase as determined by the city council shall be given.

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:

- (i) When the employee meets the qualification requirements for the new position;
- (ii) If it is in the best interest of the municipal government; and
- (iii) If it meets the personal needs of the employee as consistent with the other requirements of this rule.

An employee who transfers from one municipal government department 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:

- (A) Because his/her position is being abolished and he/she would otherwise be laid off;
- (B) Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job;
- (C) Because there is a lack of work;

(D) Because there is a lack of funds;

(E) 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;

(F) Because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds; or

(G) Because the employee voluntarily requests such a demotion and it is available.

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.

(7) Probationary period. The probationary, or working test period is part of the examination process, and shall be utilized for the following:

(a) Closely observing the employee's work;

(b) Securing the most effective adjustment of a new promoted employee to his/her position; and

(c) 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 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.

(8) 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 the 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.

(9) Work day/work week. Pursuant to the Fair Labor Standards Act, a workweek is the regular recurring period of one hundred sixty eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods. Except as is provided in special contracts of employment, the number of days that shall constitute a work week 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.

(10) 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 absences may result in disciplinary action.

(11) Overtime pay. When it becomes necessary for an employee to work overtime hours, regular employees, part-time employees and temporary employees shall be paid according to the prevailing salary schedule. 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 1/2) the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one-and-one half (1 1/2) times the hours worked in accordance with the Fair Labor Standards Act. Generally, overtime work must be authorized by the department supervisor.

(12) On call. The gas department shall have an employee on call twenty-four (24) hours a day, and that particular employee that is on call shall be compensated at a rate set by the city council.

(13) Nepotism. (a) Prohibited. No person who is a relative of the mayor or a member of the city council or city employee shall be hired by the city for any type of employment. No person who is a relative of a current employee of the city shall be promoted, transferred or otherwise placed in any position in which a relative would have a direct reporting or supervisory relationship with the employee.

(b) Definitions. (i) For purpose of this section, the term "relative" shall include spouse, child, step-child, parent, step-parent, mother-in-law, father-in-law, sibling, step-sibling, half-sibling, brother-in-law, and sister-in-law.

(ii) For purposes of this section, the term "direct reporting or supervisory relationship" means a relationship if there is a superior and subordinate, and the supervisor has the authority to assign work to and require from the subordinate and to make other employment-related decisions and recommendations of the subordinate.

(c) An employee currently employed with the city and in violation of this section upon the effective date of this amendment shall be exempt from its provisions as it relates to his current position. (1973 Code, § 1-707, as amended by Ord. #555, Oct. 2008, modified, and as amended by Ord. #593, May 2011, and Ord. #674, June 2015)

**4-108. Benefits.** (1) Legal holidays. 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 1st
M.L. King Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11th
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving Day	Friday following Thanksgiving Day
Christmas Eve	December 24th
Christmas	December 25th
Good Friday	Being the Friday before Easter

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.

(2) Holiday pay. (a) 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 receive regular eight (8) hour holiday plus one and one-half (1 1/2) times the hourly pay for the time actually worked on a holiday. Employees eligible for holiday pay must be on full-time pay status. 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. All holiday pay for emergency on call must be approved by the department supervisor.

(b) All employees of the City of Lafayette shall be allowed to accumulate and hold, from one (1) 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) Employees of the Lafayette Police Department shall be allowed to accumulate and hold from one (1) year to the next eighty (80) hours of holiday time. When an employee has eighty (80) hours of holiday time accumulated he/she shall receive holiday pay in the pay period of the holiday. Employees with more than eighty (80) hours of accumulated

holiday time on July 1, 2005 will receive holiday pay for all holidays worked until said employees uses his/her holiday time down to under eighty (80) hours. No police department employee shall cash in more than forty (40) hours of holiday pay within a thirty (30) day period without approval of the chief of police and the mayor.

(3) Annual vacation with pay. After one (1) year the employee is given forty (40) hours annual leave. Each month after the first year, three and one-third (3.334) hours will be added to that employee's annual leave. After an employee has been employed three (3) years, an additional forty (40) hours would be added with six and two-thirds (6.667) hours added each month until he or she had been employed ten (10) years. At that time an additional forty (40) hours will be added to the employee's annual leave and each month after the employee's anniversary rate ten (10) hours will be added to their 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, thirteen and one-third (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 accumulated annual leave and chooses not to take said annual leave, may at his/her request roll the annual leave over to be counted as sick leave.

Employees with less than forty (40) hours work time per week who qualify for 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 separated from 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 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. There shall be no pay in lieu of vacation. 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 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 employee. Employees electing to coincide vacation time with military leave shall receive full pay for amount of specified vacation leave.

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 (2nd ) 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 of 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. If the regular part-time employee requests more than thirty-two (32) hours in a single pay period it must be approved by the mayor. Regular part-time employees shall receive four (4) hours of sick-leave on their one (1) year anniversary and an additional four (4) hours each month while employed by the city. If a regular part-time employee resigns or is dismissed from the city for any reason, he/she will forfeit any accumulated sick leave but will be compensated for all accumulated vacation time.

(4) 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 and provided further all sick days accumulated during the employees's tenure shall be added to their years of service for the purpose of calculating retirement benefits. Sick leave benefits will commence the first day of such absence and shall continue for as long as sick leave credit remains.

Generally, employees become eligible to use sick leave when:

- (a) Employees are incapacitated by sickness or non job related injury, for medical, dental, or optical diagnosis and treatment.
- (b) After exposure to a contagious disease, when certified by a qualified doctor's certificate, that the employee may jeopardize the health of others.

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 two (2) consecutive work days 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 forty (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 the city code.

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 fifteen (15) days during any calendar month no sick leave accumulates.

Eight (8) hours absence from work while sick will constitute a charge of one (1) day of sick leave for all employees.

After an employee is on sick leave for ninety (90) consecutive work days, he/she may be placed on special leave without pay, or he/she may be terminated. Should he/she be able later to return to work, upon presentation of certification by a doctor, he/she shall be given preference for employment to a position for which he/she is qualified with the approval of the city council.

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 not used. Such compensation shall not be for less than one (1) day nor for more than ninety (90) days.

(5) 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. Such leave with pay may be used for occasions as jury duty, military leave, death, or natural catastrophe in an employee's family requiring the employee's presence, and time granted for attendance at job related professional meetings.

Special leave without pay may be granted for a period not to exceed ninety (90) days for temporary sickness, maternity, disability, or for other good and sufficient reasons which are considered controllable. 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.

This provision shall not be construed to eliminate other possible needs for special leave; however, this leave shall not be chargeable to either sick leave or vacation leave. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

(6) Military leave. Any regular employee who has completed six (6) months of satisfactory employment, and who is a 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 in any one (1) calendar year. Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. 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.

Any regular employee who is 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) who is called to active duty will be placed on military leave. Such employee must present their supervisor or department head with advance notice of their active duty orders. The employee's seniority, status and pay will remain unchanged during their time of military leave. Continued health insurance coverage will be offered up to eighteen (18) months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during their 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:

(a) On the first work day back for employees deployed thirty (30) days or less;

(b) Within fourteen (14) days of the end of service for employees deployed up to one hundred eighty (180) days; and

Within ninety (90) days of the end of service for employees deployed one hundred eighty-one (181) days or longer.

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.

(7) Military reserve duty leave. Any regular employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve or any of the armed forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her supervisor. Compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 8-33-109.

(8) 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.

(9) 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.



(10) Maternity leave. A female employee, who has been employed full-time for at least one (1) year with the City of Lafayette and who gives at least three (3) months advance notice of her anticipated date of departure, length of maternity leave and intentions to return to full-time employment, may be granted maternity leave for a period not to exceed four (4) months for the purpose of pregnancy, childbirth, and the nursing of the infant. Sick leave may be granted for maternity purposes; otherwise, the employee will be granted a leave of absence without pay.

An employee desiring maternity leave shall notify her supervisor so a temporary replacement may be secured. Return to duty must be accompanied by a release statement from the employee's attending physician.

(11) 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 (2) weeks full pay. Further, his/her beneficiary shall be given complete assistance by the recorder in settling pension, life and hospital insurance benefits.

(12) Retirement system. Employees of the City of Lafayette will be eligible for retirement benefits under the Tennessee Consolidated Retirement System.

(13) Hospitalization insurance. Employees of the City of Lafayette are covered under a hospitalization 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.

(14) 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.

(15) Occupational disability. All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Workers' Compensation Law.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave or vacation leave during the period of convalescence. 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.

Employees shall report immediately any injury incurred in the course of their employment, however minor, to their supervisor and take such first aid or medical treatment as necessary. Any employee determined to have been able, but who fails, to make such a report shall not be eligible for 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.

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 council. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the board of mayor and council.

(16) Employee bonus plan. Each full-time employee shall receive an annual bonus of one hundred dollars (\$100.00) for each year of service as a full-time employee. An employee must be a full-time employee on or before November 30th of the year prior to the time bonus is paid.

The bonus shall be paid at the first pay period of December, beginning December, 2002. Retirees may receive a bonus at a prorated rate for a partial year, i.e. one-twelfth (1/12) of a year, per month worked.

Upon the death of a full-time employee, the bonus shall be prorated for the months worked, and payments shall be made to the beneficiary designated on the employee's life insurance. Termination for any reason other than retirement will forfeit the bonus.

- (17) Bereavement leave. If an 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:

(a) 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 (1) 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 (3) 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).

(b) The employee will be paid one (1) day for each day granted off:

(i) 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 or days not worked.

(ii) 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.

(c) The employee's rate of pay for the days granted off shall be the base rate of pay, excluding any overtime premium.

(d) 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.

(e) If any of the three (3) bereavement leave days described in item (a) 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, the employee will be paid for that day as a bereavement day in the manner described above, and will not be charged an annual leave day.

(f) Employees that meet the above requirements will be paid one (1) day of bereavement pay in accordance with the above policy following the death of the following family members:

- |                |               |
|----------------|---------------|
| Grandparent    | Grandchild    |
| Brother-in-law | Sister-in-law |

(1973 Code, § 1-708, as amended by Ord. #535, May 2008, modified)

**4-109. Miscellaneous policies.** (1) 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.

(2) Personal telephone calls. The use of the office telephone during regular work hours for local and/or long distant calls of a personal nature, except in emergency cases, is discouraged.

(3) Narcotics and intoxicating liquors. See chapter 4 of title 4 for the City of Lafayette Drug and Alcohol Testing Policy.

(4) Fighting, horseplay, damaging municipal government property. 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.

(5) Garnishment. An employee who is garnished for more than one (1) indebtedness 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.

(6) Trip approval. All out-of-town meetings, inservice training, conventions and etc. which are to be attended by employees of the city shall have prior written approval by the mayor. 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.

(7) Trip reimbursement. All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior written approval of the mayor. 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. See chapter 3 of title 4 of this code for travel reimbursement regulations.

(8) 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 Drivers License and be approved by their supervisor or the mayor.

(9) Sexual harassment.

\*\*\*\*\*NOTE\*\*\*\*\*

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently this policy applies to all officers and employees of the City of Lafayette, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the municipal government, and employees working under contract for the municipality.

(a) Definition. Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented stories; displaying sexually explicit pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the municipal government.

(b) Making sexual harassment complaints. The municipality may be held liable for the actions of all employees with regard to sexual harassment and therefore, will not tolerate the sexual harassment of its

employees. The city will take immediate, positive steps to stop it when it occurs.

By law, the city is responsible for acts of sexual harassment in the workplace where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the workplace, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (i) The employee's immediate supervisor.
- (ii) The employee's department head.
- (iii) The city's recorder.
- (iv) The mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

(A) Official's or employee's name, department, and position title.

(B) The name of the person or persons committing the sexual harassment, including their titles, if known.

(C) The specific nature of the sexual harassment, how long it has gone on, and 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.

(D) Witnesses to the harassment.

(E) Whether the employee has previously reported the harassment and, if so, when and to whom.

(c) Reporting and investigating of sexual harassment complaints. The mayor is the person designated by the municipal government to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be appointed by the city council.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the mayor. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(d) Action on complaints of sexual harassment. Upon receipt of a report of the investigation of a complaint of sexual harassment the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, the mayor shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the mayor determined that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the municipal charter, ordinances or rules governing his authority to discipline employees. If the mayor feels that disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he/she shall make that determination known to the governing body of the City of Lafayette, together with the report of the investigation. If the governing body determines that the complaint of sexual harassment was founded, it may discipline the employee

consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of employee, and any other factors the governing body believes relate to fair and efficient administration of the municipal government, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

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

(e) **Obligation of employee.** Employees are not only encouraged to report instances of sexual harassment, they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

(10) **Political activity.** Employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office (except for membership on the municipal governing body), the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Provided, however, no employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election.

(11) **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 life insurance, vacation, pension and retirement, health insurance, 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.

(12) 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. (1973 Code, § 1-709, modified)

**4-110. Separations and disciplinary actions.** (1) 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: resignations, 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.

(2) 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 and all municipal government equipment assigned. An unauthorized absence from work 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.

(3) 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 positions in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regular employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform required duties because of physical or mental



impairment. 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 council. The municipal government may require an examination at its expense and performed by a licensed physician of its choice.

(5) 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.

(6) 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 law must be paid to the surviving spouse.

(7) 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:

- (a) Oral reprimand;
- (b) Written reprimand;
- (c) Suspension;
- (d) Dismissal.

(8) 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.

(9) 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.

(10) Suspension. An employee may be suspended with or without pay by the mayor.

(11) 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.

If the employee requests a hearing on the proposed action, the mayor shall promptly set a date and time for the hearing before the city council. The decision of the board of mayor and council shall be final.

(12) Grievance procedures. A grievance is defined as an employee's feeling of dissatisfaction, 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 management decision affecting him. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, lay-off, 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 seventy-two (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 seventy-two (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 (3) days of the hearing (seventy-two (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.

(13) Appeals process. Any city employee reprimanded, suspended, or dismissed may appeal, by submitting to the mayor, a request to have the action reviewed by the board of mayor and council. An employee must submit the request for an appeal within ten (10) calendar days of receipt of notification of the disciplinary action and must also state his/her intent to have representation and name the representatives. The board of mayor and council shall schedule a hearing within fourteen (14) days of the receipt of the employee's request for appeal. The action of the board of mayor and council shall be final and binding on all parties involved unless appealed to the chancery court by the employee. (1973 Code, § 1-710, as amended by Ord. #643, May 2013)

**4-111. Amendment of personnel rules.** (1) 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.

(2) 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.

(3) Position description.<sup>1</sup> Employees will perform their duties as described in adopted position descriptions which are made part of this personnel policy by reference, as they are approved by the mayor and city council by resolution. (1973 Code, § 1-711)

**4-112. Social security for officers and employees--exclusions.** It is the intent and purpose of the city council to amend the Social Security Agreement by and between the City of Lafayette and the State Old Age and Survivors Insurance Agency, to exclude from its coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of election workers and election officials if the remuneration paid for such services in a calendar year is less than one thousand dollars (\$1,000.00) or after

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<sup>1</sup>Position descriptions are on file in city recorder's office.

January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount thereafter determined under section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (1973 Code, § 1-712, modified)

## CHAPTER 2

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances upon standards authorized.
- 4-206. Administration.
- 4-207. Funding the program plan.

**4-201. Title.** This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Lafayette. (1973 Code, § 1-1101, as replaced by Ord. #651, Oct. 2013)

**4-202. Purpose.** The City of Lafayette in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety the health standards, and provide for education and notification of all employees of the existence of the program plan. (1973 Code, § 1-1102, as replaced by Ord. #651, Oct. 2013)

**4-203. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Lafayette shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1973 Code, § 1-1103, as replaced by Ord. #651, Oct. 2013)

**4-204. Standards authorized.** The occupational safety and health standards adopted by the City of Lafayette are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.<sup>1</sup> (1973 Code, § 1-1104, as replaced by Ord. #651, Oct. 2013)

**4-205. Variances upon standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (1973 Code, § 1-1105, as replaced by Ord. #651, Oct. 2013)

**4-206. Administration.** For the purposes of this chapter, the City of Lafayette Safety Director is designated as the director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

administer the program plan.<sup>1</sup> The Safety Director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (1973 Code, § 1-1106, as replaced by Ord. #651, Oct. 2013)

**4-207. Funding the program plan.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Lafayette. (1973 Code, § 1-1107, as replaced by Ord. #651, Oct. 2013)

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<sup>1</sup>The Occupational Safety and Health Program Plan of Operation for the City of Lafayette, including all appendices, has been added to this municipal code as Appendix B.

## CHAPTER 3

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedules.
- 4-304. Administrative procedures.
- 4-305. City-owned vehicle policy.

**4-301. Enforcement.** The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these regulations. (1973 Code, § 1-1401)

**4-302. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:



(a) Directly related to the conduct of the city business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (1973 Code, § 1-1402)

**4-303. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (1973 Code, § 1-1403)

**4-304. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder. This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (1973 Code, § 1-1404)

**4-305. City-owned vehicle policy.** The Internal Revenue Service requires certain affirmative policies by local governments to enable record-keeping and valuation rules be utilized.

The purpose of this regulation is to establish rules for the utilization of both city-owned vehicles and equipment that are owned or leased by the city be used by employees in the performance of their official duties for commuting to assist in scheduling and response time in the various city offices and departments.

Employees and officials of the City of Lafayette are prohibited from using city-owned vehicles for personal use, except for commuting when authorized to do so by the City of Lafayette City Council or by a designated official for bona fide non-compensatory reasons in the conduct of city business and for

de minimis personal use, such as stops for meals taken in the course of employment or on the way to and from home that does not materially increase the number of miles a vehicle is driven.

City vehicles shall be used for official city business and shall be made available for use in connection with city business.

On-call employees may from time to time be allowed to take a vehicle home. On such occurrences the rules that apply to those assigned vehicles shall be followed by those temporarily assigned vehicles.

Under no circumstances are employees operating city vehicles or city equipment to allow nonemployees to operate such equipment.

No driver or operator of a city vehicle or piece of equipment shall carry passengers except another city employee, elected city officials, approved volunteer personnel (reserve police officers and volunteer firefighters), clients or persons engaged in or advising on matters relating to city business. Other persons in the following categories are exceptions to this rule and may be transported in a city vehicle:

- (1) Persons who are detained or who must be transported by the police department within the scope of their police duties;
- (2) Spouses who are accompanying a city employee to a meeting in which the employee is representing the city (prior approval of the city mayor is required).

All city employees who are assigned a city vehicle and then use the vehicle for travel to and from work shall receive a statement indicating the amount of benefit, for tax purposes, derived from their use of vehicle.

Commuting rule: Under this rule, you determine the value of a vehicle you provide to an employee for commuting use by multiplying each one (1) way commute (that is, from home to work or from work to home) by one dollar and fifty cents (\$1.50) or current IRS commuting rate. If more than one (1) employee commutes in the vehicle, this value applies to each employee.

The primary driver or operator of each city vehicle or piece of equipment shall be immediately reported to the supervisor responsible for the vehicle or piece of equipment. If damage also occurs to vehicles or property not owned by the city, the accident shall also be reported to the appropriate police department. Whenever an accident occurs locally to a police department vehicle or whenever injury or death has occurred, the Tennessee Highway Patrol (THP) shall be notified and the THP will handle the investigation. If the THP is not available, the Lafayette Police Department or Macon County Sheriff's Office shall investigate. All accidents shall be reported as soon as possible by the supervisor to the maintenance shop and the recorder.

Regulations and procedures regarding the routine maintenance and care of city vehicles and equipment shall be issued by the maintenance supervisor. Any regulations which the maintenance supervisor may issue or which he has already issued shall be considered a part of the formal regulations concerning

the operation of city vehicles and equipment. The maintenance supervisor shall inform the city mayor or the mayor designee of any violations of these procedures.

City-owned vehicles not being used for commuting purposes or after normal business shall be secured on city-owned property unless temporarily located elsewhere, such as for maintenance.

All drivers and operators of city vehicles and equipment shall have appropriate (as required by the employee's job description) driver's/operator's licenses issued by the State of Tennessee or the state in which the employee resides and shall obey all traffic laws, rules, and regulations of the State of Tennessee and the City of Lafayette. (Ord. #608, Dec. 2011)

**CHAPTER 4****DRUG AND ALCOHOL TESTING POLICY<sup>1</sup>****SECTION**

- 4-401. Purpose.
- 4-402. Scope.
- 4-403. Consent form.
- 4-404. Compliance with substance abuse policy.
- 4-405. General rules.
- 4-406. Drug testing.
- 4-407. Alcohol testing.
- 4-408. Education and training.
- 4-409. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
- 4-410. Voluntary disclosure of drug and/or alcohol use.
- 4-411. Exceptions.
- 4-412. Modification of policy.
- 4-413. Definitions.

**4-401. Purpose.** The City of Lafayette recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Lafayette to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Lafayette are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Lafayette has adopted this drug and alcohol testing policy effective January 1, 1996. This policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a Commercial Driver's License (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation

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<sup>1</sup>Appendices codified in this chapter are of record in the recorder's office.

Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Lafayette that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (1) Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- (2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
- (3) Refusing or failing a drug and/or alcohol test administered under this policy;
- (4) Providing an adulterated, altered, or substituted specimen for testing;
- (5) Use of alcohol within four (4) hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
- (6) Use of alcohol or drugs within eight (8) hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The personnel director has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of Lafayette property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (1973 Code, § 1-1501)

**4-402. Scope.** Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Lafayette. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the City of Lafayette. (1973 Code, § 1-1502)

**4-403. Consent form.** Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

- (1) The procedure for confirming and verifying an initial positive test result;
- (2) The consequences of a verified positive test result; and
- (3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (1973 Code, 1-1503)

**4-404. Compliance with substance abuse policy.** Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination. (1973 Code, § 1-1504)

**4-405. General rules.** These are the general rules governing the City of Lafayette drug and alcohol testing program:

(1) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

(2) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

(3) All City of Lafayette property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City properly includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act. (1973 Code, § 1-1505)

**4-406. Drug testing.** An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six (6) separate conditions:

(1) Types of tests. (a) Pre-employment. All applicants for employee status for positions requiring a CDL or for a position in the fire department, police department, gas department, and transit department who have received a conditional offer of employment with the City of Lafayette, must take a drug test before receiving a final offer of employment.

(b) Transfer. Employees transferring to the fire department, police department, gas department, and transit department and/or another position within the city that requires a Commercial Driver's License (CDL) shall undergo drug testing.

(c) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Lafayette to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each 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 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 same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Lafayette 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.

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or the designated personnel of the City of Lafayette to the designated urine collection site within thirty-two (32) hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within thirty-two (32) hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures. No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Lafayette and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the Medical Review Officer (MRO) of the City of Lafayette appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Lafayette or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within



thirty-two (32) hours must be fully documented by the attending medical personnel.

(d) Testing based on reasonable suspicion. A drug test is required where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

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 City of Lafayette 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 personnel director 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.

(e) Random testing. Only employees of the City of Lafayette possessing or wishing to obtain a Commercial Driver's License (CDL) are subject to random urine drug testing. It is the policy of the City of Lafayette to annually random test for drugs for at least fifty percent (50%) of the total number of drivers possessing or obtaining 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 with unpredictable frequency. Some 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 city, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Lafayette may omit that employee from that random testing or await the employee's return to work.

(f) Return-to-duty and follow-up. Any employee of the City of Lafayette who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be announced, and at least six (6) tests will be conducted the first twelve (12) months after an employee returns to duty. Follow-up testing maybe extended for up to sixty (60) months following

return to duty. The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(2) Prohibited drugs. All drug results will be reported to the Medical Review Officer (MRO). If verified by the MRO, they will be reported to the personnel director. The following is a list of drugs for which tests will be routinely conducted (see Appendix A<sup>1</sup> for cutoff levels):

- (a) Amphetamines;
- (b) Marijuana;
- (c) Cocaine;
- (d) Opiates;
- (e) Phencyclidine (PCP);
- (f) Alcohol; and
- (g) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(3) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Lafayette to a drug test collection facility selected by the City of Lafayette (see Appendix B<sup>1</sup>), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Lafayette to perform the analysis on collected urine sample.

(4) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS) (see Appendix C<sup>1</sup>).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within thirty-two (32) hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the

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<sup>1</sup>Appendices codified in this chapter are of record in the recorder's office.

analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the personnel director.

(5) **Reporting and reviewing.** The City of Lafayette shall designate a Medical Review Officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C<sup>1</sup>).

(a) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Lafayette.

(b) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk to the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the personnel director, and the employee.

(d) Neither the City of Lafayette, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (1973 Code, § 1-1506)

**4-407. Alcohol testing.** An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six (6) separate conditions:

(1) **Types of tests.** (a) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Lafayette to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each

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<sup>1</sup>Appendices codified in this chapter are of record in the recorder's office.

employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two (2) hours following the accident (incident).

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Lafayette to the designated breath alcohol test site for a breath alcohol test within two (2) hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of Lafayette and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the Medical Review Officer (MRO) of the City of Lafayette appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Lafayette or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's

system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two (2) hours must be fully documented by the attending medical personnel.

(b) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One (1) supervisor who has received alcohol 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 City of Lafayette making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the personnel director within eight (8) hours of the decision to test and before the results of the tests are received by the department.

(c) Random testing. Only employees of the City of Lafayette possessing or wishing to obtain a Commercial Driver's License (CDL) or who are gas department employees are subject to random alcohol testing. It is the policy of the City of Lafayette to annually random test for alcohol at least twenty-five percent (25%) of the total number of drivers possessing or obtaining 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 alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable 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 be tested on the date random testing occurs, the City of Lafayette may omit that employee from that random testing or await the employee's return to work.

(d) Return-to-duty and follow-up. Any employee of the City of Lafayette who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(2) Alcohol testing procedures. All breath alcohol testing conducted for the City of Lafayette shall be performed using Evidential Breath Testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

(a) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent Breath Alcohol Level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to step two.

(b) Step two. Fifteen (15) minutes shall be allowed to pass following the completion of step one above. Before the confirmation test or step two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one (1) more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then step one shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in step two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in step one and step two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Lafayette up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City of Lafayette.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Lafayette, when possible.

The completed breath alcohol test form shall be submitted to the personnel director. (1973 Code, § 1-1507)

**4-408. Education and training.** (1) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One (1) sixty (60) minute period will be for drugs and one (1) will be for alcohol.

The City of Lafayette will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

- (a) Informational material on the effects of drug and alcohol abuse;
- (b) An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- (c) The City of Lafayette policy regarding the use of prohibited drugs and/or alcohol; and
- (d) The penalties that may be imposed upon employees for drug and alcohol abuse violations occurring in the workplace. (1973 Code, § 1-1508)

**4-409. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.** Job applicants will be denied employment with the City of Lafayette if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city employee assistance program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's employee assistance program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not

prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver:

(1) Fails to provide adequate breath or testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test. (1973 Code, § 1-1509)

**4-410. Voluntary disclosure of drug and/or alcohol use.** In the event that an employee of the City of Lafayette is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the City of Lafayette. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Lafayette may be allowed up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided paid/unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) of the City of Lafayette. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and personnel director of the City of Lafayette will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to



complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Lafayette. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (1973 Code, § 1-1510)

**4-411. Exceptions.** This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol. (1973 Code, § 1-1511)

**4-412. Modification of policy.** This statement of policy may be revised by the City of Lafayette at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Lafayette. (1973 Code, § 1-1512)

**4-413. Definitions.** For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(1) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(2) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred ten (210) liters of breath as indicated by a breath test.

(3) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(4) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a Commercial Driver's License (CDL) being processed for employment. For the purposes of this policy, an applicant may also be a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

(5) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing (EBT) device.

(6) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

(7) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

(8) "Collection site personnel." A person who instructs donors at the collection site.

(9) "Commercial Driver's License (CDL)." A motor vehicle driver's license required to operate a Commercial Motor Vehicle (CMV).

(10) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than twenty-six thousand (26,000) pounds; designed to transport more than fifteen (15) passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(11) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 percent or greater that provides quantitative data of alcohol concentration.

(12) "Confirmed positive result." The presence of a illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two (2) consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 percent is considered a positive result.

(13) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(14) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(15) "DHHS." The Federal Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

(16) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Lafayette, the Federal Highway Administration (FHWA) is the DOT agency.

(17) "Driver." Any person who operates a commercial motor vehicle.

(18) "EAP." Employee Assistance Program.

(19) "Employee." An individual currently employed by the City of Lafayette.

(20) "Evidential Breath Testing Device (EBT)." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(21) "FHWA." Federal Highway Administration.

(22) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analysis procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(23) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(24) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(25) "NHTSA." National Highway and Traffic Safety Administration.

(26) "Refuse to submit." Refusing to submit to an alcohol or controlled substances test means that an employee:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

(27) "Safety-sensitive drivers." Employees in the aviation, motor carrier, railroad, and mass transit industries.

(28) "Split specimen." Urine drug test sample will be divided into two (2) parts. One (1) part will be tested initially, the other will remain sealed in case a retest is required or requested.

(29) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the

National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. (1973 Code, § 1-1513)