

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

#### 1. PERSONNEL POLICIES.

#### CHAPTER 1

### PERSONNEL POLICIES

#### SECTION

- 4-101. Personnel policy.
- 4-102. Employees.
- 4-103. Hiring procedures.
- 4-104. Benefits and leave policy.
- 4-105. Compensation.
- 4-106. State and federal personnel mandates.
- 4-107. Miscellaneous policies.
- 4-108. Dismissal.
- 4-109. Personnel policy changes.

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

(2) At-will employer. The City of Maynardville, Tennessee is an at-will employer. Nothing in this document may be construed as creating a property right or contractual right to any job for any employee.

(3) Coverage. The following personnel are not covered by all sections of this policy, unless otherwise provided:

- (a) All elected officials;
- (b) Members of appointed boards and commissions;
- (c) Consultants, advisers, and legal counsel rendering temporary professional service;
- (d) The city attorney;
- (e) Independent contractors and/or contract employees;
- (f) Volunteer personnel;
- (g) The city judge.

All other employees of the municipal government are covered by this personnel policy.

(4) Disclaimer. The City of Maynardville complies with local state and federal laws. In the event that there is a conflict between the contents of this manual and a local, state or federal statute, the statute shall control.

**4-102. Employees.** (1) Full-time. Full-time employees are individuals employed by the municipal government who work forty (40) hours per week.

(2) Part-time. Part-time employees are individuals employed by municipal government who work less than forty (40) hours per week on a regular basis.

**4-103. Hiring procedures.** (1) Policy statement. The primary objective of his hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. If an accommodation is needed, please contact the city recorder's office at 865.992.3821.

(2) Eligibility. Individuals shall be recruited from a geographic area as wide as necessary to assure that well qualified applicants for the various types of employment positions have been solicited.

(3) Job announcements. The city manager shall prepare and publicize recruiting notices in order to bring notice of vacancies to as many qualified persons as possible. Multiple media forms may be used.

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

The city complies with the Americans with Disabilities Act. Applicants requesting reasonable accommodations at any point in the employment process should contact the city recorder at 865.992.3821.

(5) Interviews. All appointments will be preceded by an interview with the hiring authority. This may include the supervisor, department head and the city manager.

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

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

Selection and appointment of personnel are to be made by the city manager.

(a) Procedure. (i) Whenever a vacancy exists, the city manager shall initiate measures to fill the vacancy.

(ii) If the vacancy is allocated in the budget, the city manager or designee shall determine qualified applicants.

(iii) After the interviews, the city manager shall make the appointment.

(b) Emergency appointments. In an emergency, the city manager may authorize the appointment of any qualified person in a position to prevent stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed thirty (30) days in any twelve (12) month period.

(c) Student appointments. The city manager may appoint students majoring in fields of value to the city, from qualified cooperating educational institutions, on an internship basis for a specified period of time, not to exceed twelve (12) months. Students working under cooperative programs (co-ops) may continue to be employed under a cooperative agreement for a period longer than twelve (12) months with the approval of the city manager.

(d) Promotions. Vacancies in positions above the lowest rank in any category in the service shall be filled as far as practical by the promotion of employees in the city's service. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

The city manager may require that each eligible person who wishes to compete for promotion must fill out application forms as prescribed and present this application at the appropriate office on or before a specified date for a posted position.

(e) Transfers. Any employee desiring to be transferred to a posted position should make the request known in a letter to the city manager and hiring authority and would follow the same application process as an external candidate.

However, as vacancies occur in other departments to which the employee would be eligible for transfer, the city manager may authorize the internal transfer.

The transfer of an employee from one position to another without significant change in skill levels 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 city;

(iii) If further training and development of an employee in another position would be beneficial to the future staffing potential of the city; and

(iv) If it meets the personal needs of the employee consistent with the requirement of this rule.

\*Reminder: The City of Maynardville is an at-will employer. The city reserves the right to terminate an employee's employment at any time with or without cause.

(f) Demotions. Employees may be demoted to a position of lower grade for which they are qualified for any of the following reasons:

(i) The employee's position is being abolished and they would otherwise be laid off;

(ii) The employee's position is being reclassified to a higher grade;

(iii) There is a lack of work;

(iv) There is a lack of funds;

(v) Another employee, returning from authorized leave granted in accordance with rules on leave, will occupy the position, to which the employee is currently assigned;

(vi) The employee voluntarily requests a demotion, if a position is available.

(8) Recruitment exam. All appointments shall be made according to merit and fitness and may be subject to competitive oral or written examinations, including promotional examinations.

(a) Types of examinations. The fitness tests held to establish a list of eligibles for any class shall consist of one (1) or more of the following parts as determined by the city manager:

(i) Written test. This part, when required, shall include a written demonstration designed to show the familiarity of competitors with the knowledge involved in the type of position to which they seek appointment, the range of their general information, or their general educational attainments, and other job-related written testing requirements.

(ii) Oral interview. This part, when required, shall include a personal one-on-one interview for classes of positions where ability to deal with others, to meet the public or other personal qualifications are to be evaluated. An oral interview may also be used in situations where a written test is unnecessary or impractical.

(iii) Performance tests. This part, when required, shall include tests of performance that determine the ability of competitors to physically perform the essential functions of the work involved.

(iv) Psychological tests. When required, the psychological tests shall include any tests that determine the ability of competitors to perform the essential functions of a position or to meet requirements imposed by law.

(v) Training and experience. This part, when required, shall be obtained and evaluated from statements of education and

experience contained in the application form or from such supplementary data as may be required.

(b) Medical examinations. After a conditional offer of employment has been extended to an applicant and prior to beginning work in the city service, each prospective employee may be required to undergo a medical examination by the city physician to determine physical and mental fitness to perform the essential functions for the position they have been offered. The medical examination expenses will be paid by the city.

Any prospective employee determined to be unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only:

(i) If the employee cannot perform the essential functions due to a covered disability which cannot reasonably be accommodated.

(ii) The employee poses a direct threat to themselves or others.

(iii) The employee is unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

All employees of the city may, during their period of employment be required by their department head, with approval of the city manager, to undergo periodic medical examinations to determine their physical and mental ability to perform essential functions of the position in which they are employed.

Such periodic medical examinations shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician or physicians designated by the city.

When an employee of the city is reported by the examining physician to be physically or mentally unfit to perform the essential functions of the position in which they are employed, the employee may, within five (5) days from the date of his or her notification of the determination by the examining physician, indicate in writing to the city manager his/her intention to submit the question of 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, then a physician shall be mutually designated by the examining physician and the physician chosen by the employee, whose decision shall be final and binding as to the physical or mental fitness of the employee to perform the work of the position in which he/she is employed. The city shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid by the loser of the disputed opinion.

An employee determined to be physically or mentally unfit to perform the essential functions of the position in which he/she is

employed may be demoted in accordance with these rules or be separated from the city service after it has been determined that:

- (i) The employee cannot perform the essential functions due to a covered disability which cannot reasonably be accommodated.
- (ii) The employee poses a direct threat to themselves or others.
- (iii) The employee is unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

A drug test is not considered a medical examination and may be administered by the city any time in the pre-employment (post offer) or employment process in accordance with city policy.

The results of any medical examination performed on behalf of the city will be collected and maintained in separate medical file and will be treated as confidential. Medical information may be disclosed only under the following circumstances:

- (i) Supervisors and managers may be informed about necessary restrictions on the work or duties of the employee and any necessary accommodations;
- (ii) First aid and safety personnel may be informed, where appropriate, if the disability might require emergency treatment; and
- (iii) Government officials investigating compliance with federal laws shall be provided relevant information upon proper request.
- (iv) Instances in which HIPPA allows information to be disclosed for business or safety reasons.

**4-104. Benefits and leave policies.** (1) All functions of the city, except emergency and necessary operations, will be closed and full-time employees excused on the following legal holidays:

- |     |                        |           |
|-----|------------------------|-----------|
| (a) | New Year's Day         | January   |
| (b) | Martin Luther King Day | January   |
| (c) | Good Friday            | April     |
| (d) | Independence Day       | July      |
| (e) | Memorial Day           | May       |
| (f) | Labor Day              | September |
| (g) | Thanksgiving Day       | November  |
| (h) | Day after Thanksgiving | November  |
| (i) | Christmas Day          | December  |

The city may provide two (2) additional paid holidays each year which are at the discretion of the City of Maynardville.

The city will publish a list of dates associated with paid holidays once per year. The city may revise the holiday schedule at any time.

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, it shall be observed the following Monday. The City of Maynardville may change this schedule at any time with or without notice.

(2) Holiday pay. When an employee must work on the day the city observes a holiday, he/she shall receive eight (8) hours holiday pay (straight time pay) plus overtime pay (1.5 hours) for time worked, or shall be granted eight (8) hours off on an alternate day approved by the supervisor.

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

(3) Vacation leave. Vacation leave will be granted to full-time employees and may be taken when the time has accrued. For vacation purposes, time is earned beginning January and prorated at the schedule below through December of the same year. Regular full-time employees are eligible for vacation leave benefits. Part-time employees are not eligible.

Vacation time will be calculated according to the following schedule:

Years of Service	Days Per Year	Hours Earned Per Month
0-9	10 days	6.67
10+	15 days	10
20+	20 days	13.33

Vacation leave shall be taken at a time approved by the employee's supervisor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed. Vacation must be taken and cannot be accrued beyond current year.

(4) Sick leave. Each regular full-time employee will accrue sick leave at the rate of one (1) day (eight (8) hours) per month up to seven hundred twenty (720) hours. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains. Employees may carry sick leave hours over from year to year but accumulated sick leave hours may not be payable to the employee upon separation from employment from the city. (Separation to mean the following: resignation, layoff, disability, death, retirement, and dismissal.)

Upon retirement, accrued sick leave will be credited to the employees TCRS retirement account.

Generally, employee's become eligible to use sick leave in the situation outlined below:

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

(b) Employees may jeopardize the health of other because they have been exposed to a contagious disease requiring notice from a qualified doctor.

(c) Necessary care and attendance of a member of the employee's immediate family is approved by a jurisdictional official. Immediate family members under the sick policy are outlined below.

For purposes of this section immediate family may be considered as: husband, wife, father, mother, son, and daughter.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three (3) workdays may also require a doctor's certification to return to work (if, in the opinion of the immediate supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no sick leave accumulates. An eight (8) hour absence from work while sick will constitute a charge of one (1) day of sick leave.

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

(5) Unpaid leave of absence. The City of Maynardville is firmly committed to protecting the rights of expectant mothers and complying with Title VII of the 1964 Civil Rights Act as amended by the Pregnancy Discrimination Act of 1978. The City of Maynardville's policy is to treat women affected by pregnancy, childbirth or related medical conditions in the same manner as other employees unable to work because of their physical condition in all employment aspects, including recruitment, hiring, training, promotion and benefits.

(a) Accommodations for pregnancy under ADA. A normal pregnancy is not considered a disability under the Americans with Disabilities Act (ADA). But if a woman experiences pregnancy complications that substantially limit a major life activity, she may be considered disabled under the ADA and, therefore, entitled to reasonable accommodation to perform her job. The City of Maynardville will make every reasonable attempt to accommodate an employee who experiences pregnancy complications under ADA.

(b) Maternity leave for birth of child. Pregnant employees may continue to work until they are certified as unable to work by their physician. At that point, pregnant employees are entitled to a maximum

of six (6) weeks of unpaid leave for natural childbirth, and a maximum of eight (8) weeks of leave for a cesarean section or medically complicated birth. If the employee has annual, sick, or compensatory time accrued the city does require paid leave to run concurrent with the leave. Once paid leave is exhausted, the employee will remain on unpaid leave until the expiration of the approved leave period.

(c) Paternity leave for birth of child. Fathers are also eligible for unpaid paternity leave under this provision up to a maximum of six (6) weeks. If the employee has annual, sick, or compensatory time accrued the city does require paid leave to run concurrent with the leave period. Fathers are required to use compensatory time, followed by annual leave and sick leave before reverting to unpaid leave status. Once paid leave is exhausted, the employee will remain on unpaid leave until the expiration of the approved leave period.

(i) Care of well newborn child born/bonding with newborn. A male employee must utilize accrued vacation leave. Accrued sick leave cannot be applied. When available paid absences are exhausted, then the balance of leave will be taken as unpaid.

(ii) Care of the spouse during or after childbirth. A husband may use up to five (5) sick days to care for his spouse during or after childbirth. Extended use of sick days would require physician's certification of the spouse's "incapacitating" medical condition. When available paid absences are exhausted, then the balance of leave will be taken as unpaid.

(d) Maternity/paternity leave for adoption of child. Employees are eligible for maternity/paternity leave for the legal adoption of a child for up to a maximum of six (6) weeks.

In the event that husband and wife both work for the city and qualify for maternity/paternity leave, the city may require the total eligible leave period to be combined.

(7) Funeral/bereavement leave. Full-time employees shall be allowed three (3) days of leave with pay for the death in an employee's immediate family. In addition, employees can take two (2) sick days. After these five (5) days are exhausted an employee must take annual leave for additional time off. Immediate family shall include members as defined below. Employee's wishing to attend services of non-relatives use annual leave for this purpose. Regular part-time employees shall receive funeral/bereavement leave on a prorated basis, based on percentage of hours worked as compared to a forty (40) hour work week.

For the purpose of the bereavement policy, immediate family members are as follows: Legal spouse, parent, grandparent, child, grandchild, brother, sister, parents-in-law, brother or sister-in-law, children-in-law, foster parents, legal guardians.

Full-time employees shall be allowed one (1) day of leave with pay for the death in an employee's extended family. In addition, employees can take two (2) sick days.

Approved bereavement leave will not be deducted from an employee's sick or annual leave balance. Sick days or annual days taken will be deducted from the employee's balance.

Extended family members are as follows: Cousin, niece, nephew, aunt, uncle.

(8) Jury leave/civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (Tennessee Code Annotated, § 22-4-108);

(b) To answer a subpoena to testify for the municipality.

If the employee received compensation for his/her jury serve, it must be remitted to the city.

(9) Voting leave. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(10) Health benefits. The City of Maynardville provides group health coverage to eligible employees. The city will determine the employee and employer contribution amount. Full-time employees are eligible for benefits. Seasonal, part-time, and volunteer workers are not eligible for benefits.

(11) Retirement. The City of Maynardville participates in the "Tennessee Consolidated Retirement System." All present employees are under said Tennessee Retirement System, and new full-time employees are eligible to participate in said Tennessee Consolidated Retirement System plan.

(12) Longevity pay. The city has a longevity pay plan that provides annual payment to regular full-time and regular part-time employees as a reward for their service to the city. Longevity pay is calculated at the rate of fifty dollars (\$50.00) for each year of eligible service up to a maximum of three (3) years. Longevity payments are made by a separate payroll check and are distributed with the first payroll in the month of December each calendar year. The dollar value of longevity pay is considered as covered salary for calculating retirement.

(13) Other benefits. Other benefits may be provided. Please refer to the City of Maynardville for more information on benefits not itemized in this document. The City of Maynardville may change benefit offerings at anytime with or without notice.

**4-105. Compensation.** (1) Hourly rates/part-time employees. Employees paid on an hourly rate basis are paid for all time actually worked.

(2) Minimum wages. In accordance with the 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.

(3) Overtime/compensatory time. The City of Maynardville does not issue compensatory time.

The Fair Labor Standards Act (FLSA) requires all employers to compensate their FLSA non-exempt employees with time and a half for all hours worked over forty (40) in the workweek. FLSA guidelines differ for public safety officers. Compensable time includes all time in which the employee is required to work for the local government. Generally, uninterrupted lunch periods, annual and/or sick leave, compensatory time and any time in which the employee is not working will not be considered working time and will not be counted toward overtime. Special overtime provisions apply to public safety officers. The local government will compensate public safety officers based on the provisions of the FLSA special exemption (if applicable).

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

Overtime will not be authorized except by prior approval of the city manager. For overtime purposes, all positions within the city shall be classified as either exempt or nonexempt positions in accord with the Fair Labor Standards Act. Non-exempt employees required to work overtime shall be paid for such overtime (if eligible) on the basis of one and one-half (1 1/2) times the overtime hours worked provided that the employee has worked eight (8) hours during that day.

All work outside of a non-exempt employee's regular work schedule will be considered over-time and is compensable at one and one-half (1 1/2) times the employee's regular rate.

(4) Call back time. When it becomes necessary for an employee to work overtime hours or return to duty from off-duty hours due to an emergency, regular employees, part-time employees, and temporary employees will be paid according to the prevailing salary schedule. Overtime work will be compensated according to the FLSA provisions at a rate of one and one-half (1 1/2) times the employee's regular rate. Generally, overtime work must be authorized by the city manager.

(5) On-call time. On-call service is necessary for the proper maintenance and functioning of local government services. It is the duty and responsibility of each on-call employee to be available by electronic communication at all times. Employees must be able to respond to an emergency call within thirty (30) minutes after receiving notice. The department head or lead person will be responsible for determining which employees are designated for on-call.

When an on-call employee is called out, he/she will receive two (2) hours minimum pay for the first call-out each day. Subsequent call-outs will be paid for actual time worked (overtime pay will be awarded according to FLSA provisions).

An employee on-call who fails to respond to an emergency call within thirty (30) minutes will be subject to disciplinary action up to and including discharge. An employee called in by the on-call person who fails to respond may be subject to disciplinary action.

**4-106. State and federal personnel mandates.** (1) Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, veteran status or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment.

(2) General harassment policy. The City of Maynardville strictly prohibits harassment on the basis of race, color, religion, gender, national origin, age, or disability as such actions constitute discrimination. No city employee shall engage in harassment of any form. Harassment is defined as unwelcomed or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by the Americans with Disabilities Act that creates a hostile work environment or circumstances involving quid pro quo. Sexual harassment as defined by the Equal Employment Opportunity Commission is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Any city employee who believes he or she may have a complaint of harassment should report the complaint to the city immediately. The employee may also follow notification procedures listed in this personnel policy or and should file the complaint within thirty (30) days of the occurrence directly with the human resources administrator or city manager. City will conduct an investigation into any allegation of harassment. An administrative official of the town will advise the employee of the outcome of the investigation. The city manager will take any action he/she deems necessary to preserve the integrity of the organization and to ensure the efficiency and effectiveness of the city's operations. Employees witnessing harassment shall also report such conduct to the appropriate city official. Retaliation toward any employee exercising his or her right and duty to address perceived harassment will not be tolerated.

The city complies with all local, state, and federal guidelines concerning harassment and discrimination.

(3) Workplace violence. It is the policy of the City of Maynardville to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the local government's activities. The City of Maynardville will not tolerate any type of activity or behavior that involves a threat to the city, a member of the public, or another employee.

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

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

(b) Charges of violence may be reported to any supervisory employee of the local government, including the human resources coordinator or city manager. The human resources coordinator and city manager are charged with investigating all cases of workplace violence and harassment. Depending on the severity of the charges or whether a crime is committed, the city manager may request that the police chief provide assistance to the human resources coordinator or assume responsibility for the investigation. All employees are required to assist in the course of the investigation by providing testimony, statements and evidence, as required. Failure to cooperate may result in disciplinary action.

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

(4) Sexual harassment. (a) Purpose. The City of Maynardville may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The local government will take immediate, positive steps to stop such harassment when it occurs. The local government is responsible for acts of sexual harassment in the workplace when the local government (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the local government took immediate and appropriate corrective action. The local government may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the local government

(or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the City of Maynardville including but not limited to full- and part-time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the personnel rules or regulations of the local government, and employees working under contract for the local government. The following rules shall be strictly enforced:

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

- (i) Sexual harassment or unwelcome sexual advances;
- (ii) Requests for sexual favors;
- (iii) Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- (iv) Explicit or implied job threats or promises in return for submission to sexual favors;
- (v) Sex-oriented comments on appearance;
- (vi) Sex-oriented stories;
- (vii) Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
- (viii) Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conducted directed by women toward men, and conduct directed by women toward women.

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

- (i) The employee's immediate supervisor;
- (ii) The employee's department head;
- (iii) The city manager.

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

- (i) His/her name, department, and position title;
- (ii) The name of the person or people committing the sexual harassment, including their title(s), if known;

(iii) The specific nature of the sexual harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

(iv) Witnesses to the harassment; and

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

(d) Reporting and investigating sexual harassment complaints. The city manager is the person the local government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the city manager, the investigator may be the city attorney.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall:

(i) Immediately prepare a report of the complaint according to the preceding section and submit it to the city manager;

(ii) Make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:

(A) Verbal responses made to the investigator by the person complaining of sexual harassment;

(B) Witnesses interviewed during the investigation;

(C) The person against whom the complaint of sexual harassment was made; and

(D) Any other person contacted by the investigator in connection with the investigation.

(iii) Within twenty (20) working days of receiving the complaint, the city manager prepares and presents the findings to the city council in a report, which will include:

(A) The written statement of the person complaining of sexual harassment;

(B) The written statements of witnesses;

(C) The written statement of the person against whom the complaint of sexual harassment was made; and

(D) All the investigator's notes connected to the investigation.

(e) Action on complaints of sexual harassment. Upon receiving an investigation report of a sexual harassment complaint, the city manager will immediately review the report. If the city manager 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 a separate investigation is made), the city manager will, within a reasonable time, determine whether the conduct in question constitutes sexual harassment. In making that determination, the city manager will look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether sexual harassment actually took place will be determined on a case-by-case basis.

If the city manager determines that the harassment complaint is founded, he/she shall take immediate and appropriate disciplinary action against the guilty employee, consistent with his/her authority under the local government charter, ordinances, resolutions, or rules governing his/her authority to discipline employees. If the city manager feels that the harassment warrants disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions, or rules governing employee discipline, he/she shall make that determination known, along with the report of the investigation, to the governing body of the local government. If the governing body determines that the sexual harassment complaint is founded, it may discipline the employee consistent with its authority under the local government charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors the governing body believes relate to fair and efficient administration of the local government. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the local government. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. Determining the level of disciplinary action shall also be made on a case-by-case basis. A written record shall be kept of imposed disciplinary actions, 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, witnesses, or any other person connected with the investigation.

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

(f) **Obligation of employees.** 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 harassment investigation. The obligation includes, but is not necessarily limited to, coming forward with evidence (both favorable and unfavorable) about 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 be taken against employees who fail to report instances of sexual harassment, fail or refuse to cooperate in the sexual harassment investigation, or file a complaint of sexual harassment in bad faith.

(5) Occupational safety and health. The municipality shall provide job safety and health protection and training for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§ 656, et seq.) And the Tennessee OSHA Law.<sup>1</sup>

(6) Military leave/veterans' re-employment. All employees who are members of or who may become members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and must be given leave with pay not exceeding twenty (20) working days in any one (1) calendar year.<sup>2</sup> Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the same or comparable position in accordance with Veteran's Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act.<sup>3</sup>

(7) Commercial driver's license. All employees that drive:

(a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

(b) A trailer with a gross weight of more than ten thousand (10,000) pounds;

(c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire

---

<sup>1</sup>State law reference

Tennessee Code Annotated, § 50-3-101, et seq.

<sup>2</sup>State law reference

Tennessee Code Annotated, § 8-33-109.

<sup>3</sup>State law reference

Tennessee Code Annotated, § 8-33-101, et seq.

truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) Employee drug testing. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 C.F.R. part 199). Other employees may be subject to drug testing in accordance with the drug testing policy of the municipality.

(9) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter.<sup>1</sup>

(10) Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities.

Employees are not allowed to serve on the municipal governing body in the city where they are employed. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election.<sup>2</sup>

(11) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy. The City of Maynardville follows the state guidelines on travel.

No trips that involve reimbursement and/or municipal government expense shall be undertaken without prior approval of the city council. Mileage will be reimbursed at an amount per mile approved by out governing body and in line with what the State of Tennessee allows. Receipts are required for reimbursement for meals, lodging, air or train fares and other incidentals. For details regarding travel, obtain a copy of the municipal government's travel policy from the recorder.

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

---

<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 8-50-601--604.

<sup>2</sup>State law reference

Tennessee Code Annotated, § 7-51-1501.

**4-107. Miscellaneous policies.** Please note some of the policies in this section may be outlined in more detail in the city's ethics policy.<sup>1</sup> Please refer to the city's ethics policies for more information.

(1) Accepting of gratuities. No employee shall accept any money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipality's business. See the ethics policy for more information.

(2) Business interest. No department head or supervisor may have any financial interest in the profits of any contract, service, or other work performed by the city. No department head or supervisor may personally profit directly or indirectly from any contract, purchase, sale, or service between the city and any person or company.

No city employee may enter into a contract with the city or perform any work or function under any contract with the city if he/she has a direct or indirect financial interest in the contract, unless: The contract is awarded through a process that complies with the city's purchasing.

(3) Use of city vehicles and equipment. All city vehicles and equipment are for official use only. No other person other than a city employee may operate a city vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head or mayor.

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

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

(6) Computer use and e-mail monitoring policy. It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically, and lawfully. These policies are not

---

<sup>1</sup>Municipal code reference

Code of ethics: title 1, chapter 4.

intended to, and to not grant users any contractual rights. The term, "computer resources" refers to the city's computers, electronic equipment, and its entire computer network.

The city has the right, but not the duty, to monitor any and all aspects of the computer resources, including monitoring sites visited by employees on the internet, monitoring chat groups and news groups, reviewing material downloaded by users to the internet, and reviewing e-mail sent and received by others.

All employee correspondence in the form of electronic mail may be considered a public record and may be subject to public inspection under the Tennessee Public Records Law.

(7) Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the municipality. Decisions to permit use by charitable, civic or other organizations will be made exclusively by the governing body or their designee.

**4-108. Dismissal.** (1) At-will. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

**4-109. Personnel policy changes.** Nothing in this chapter may be construed as creating a property right or contract right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as need arises.