

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. PERSONNEL RULES AND REGULATIONS.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

**CHAPTER 1****PERSONNEL RULES AND REGULATIONS****SECTION**

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**4-101. General purpose/scope.** (1) This is a general informational guide to the town current employment policies and shall not be construed as a contract, implied or otherwise. The town reserves the right to amend, delete, supplement, or rescind any of the provisions of this manual, as the town deems necessary and appropriate, without advance notice. These policies shall not be construed to create contractual rights or any type of promise or guarantee of specific treatment upon which any employee may rely. The town also reserves the right to deviate from these policies in emergency situations, in order to achieve primary mission of providing orderly and cost efficient services to its citizens.

(2) These personnel policies shall apply to all town employees. They shall not apply to elected officials and independent contractors, except as

specified in § 4-116 of title 4, chapter 1. (Ord. #8-2003, Aug. 2003, as amended by Ord. #8-2020, Jan. 2021 *Ch8\_01-04-21*)

**4-102. Hiring procedures.** (1) Policy statement. Appointments to positions is based on merit, technical knowledge, and work experience. No person shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of race, gender, age, color, religion, creed, ancestry, disability, or national origin. Nothing in the personnel rules and regulations shall be deemed to give employees any property in their jobs.

(a) Employment with the Town of Cumberland Gap is voluntary on the part of both parties. Either the employee or the town may terminate the employment relationship at any time, with or without cause, as either party may deem appropriate.

(b) Employees with life threatening illnesses, such as cancer, heart disease, or AIDS/HIV conditions, or communicable diseases such as tuberculosis or influenza, are treated the same as all other employees. They are permitted to continue working so long as they are able to maintain an acceptable level of performance and medical evidence shows they are not a threat to themselves or their co-workers. The town will work to preserve the safety of all its employees and reserves the right to reassign employees or take other job actions when a health or safety risk to fellow town employees or the public exists.

(2) Sexual harassment. (a) It is the policy of the town to provide a work environment for its employees, which is free from discrimination and intimidation. The town will not tolerate any form of sexual harassment. Prompt disciplinary action will be taken against an employee who commits or participates in any form of sexual harassment.

(b) Sexual harassment is defined as unwanted, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct which has the effect of creating an offensive, intimidating, degrading or hostile work environment, or adversely interferes or affects an employee's work performance.

(c) Any employee who believes he or she is being sexually harassed by supervisors or co-workers should immediately notify the department head. In the event the harassment involves the department head, the employee should notify the chief executive officer. The town will not retaliate against an employee who complains of sexual harassment.

(3) Employee personnel records. (a) Personnel files are kept confidential to the maximum extent permitted by law. Except for routine verifications of employment, no information from an employee's personnel file will be related to the public, including the press, without a written report for specific information.

(b) The following records shall not be open to the public or be released.

(i) Medical records.

(ii) Psychological evaluations or profiles.

(iii) Martial counseling records, or any other records protected by state law.

(c) A police officer shall be notified within three days after someone makes a request for review of his personnel file as per provisions of state law.

(4) References. (a) The town does not give references, other than to confirm the dates of employment and last salary, without the express written consent of the employee.

(b) Only the chief executive officer or designee will provide employment references on current or former regular town employees.

(5) Substance abuse. The town may discipline or terminate an employee possessing, consuming, controlling, selling or using alcohol, drugs or other controlled substances during work hours. The town may also discipline or terminate an employee who exhibits an on-going dependence on alcohol, drugs or other controlled substances which, in the town opinion, impairs the employee's work performance, poses a threat to the public confidence, or is a safety risk to the town or others. The town is committed to supporting employees who undergo treatment and rehabilitation for alcohol or other chemical dependency.

(a) Employees who voluntarily report an alcohol, drug or controlled substance dependency problem will not be subject to retaliation or discrimination. Employees who voluntarily seek treatment may use sick leave to attend a bona fide treatment or counseling program. The town may condition continued employment on the employee's successful completion of treatment or counseling programs and future avoidance of alcohol, drugs or other controlled substances.

(b) An employee may be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that the employee is impaired due to current intoxication, drug or controlled substance use or in cases where employment has been conditioned upon remaining alcohol, drug or controlled substance free following treatment. Refusal to submit to testing, when requested, may result in immediate disciplinary action, including termination.

(c) Employees using any prescription or over the counter drugs which might impair their work performance should notify their department head. At the option of the department head, an employee may be reassigned to less hazardous duty or be placed on sick leave if impaired work performance might pose a threat to the public confidence or to the safety of the employee or others.

(6) Drug-free workplace. (a) The manufacturing, distribution, dispensation, possession and use of unlawful drugs or alcohol on town premises or during work hours by town employees is strictly prohibited.

(b) Employees must notify the town within five (5) days of any conviction for a drug violation in the workplace.

(c) Violation of this policy can result in disciplinary action, including termination. Continued poor performance or failure to successfully complete an assigned rehabilitation program is grounds for termination.

(d) Employees who are required to maintain a Commercial Driver's License (CDL) are subject to drug testing as required by the federal government in conformance with adopted town policy.

(7) Discipline and terminations. (a) All employees are expected to exercise good judgement, loyalty, common sense, dedication, and courtesy in the performance of their duties. The primary mission of every employee is to provide courteous, orderly, efficient, and economic delivery of services to the citizens of the town.

(b) Acts, errors, or omissions which discredit the public service or impair the provision of orderly services to the citizens of the town may result in the discipline, including termination.

(c) The chief executive officer or department head, as appropriate, has full discretion and authority to impose disciplinary action in accordance with town policy and the circumstances of the particular case.

(d) The following examples of the types of behavior, which may result in discipline up to and including employment termination:

(i) Drinking alcohol or the abuse of non-prescription drugs or other controlled substances on the job, or arriving on the job under the influence of or while in possession of alcohol, drugs, or other controlled substances.

(ii) Violation of a lawful duty.

(iii) Insubordination.

(iv) Absence from work without first notifying and securing permission from the supervisor.

(v) Habitual absence or tardiness for any reason.

(vi) Unsatisfactory job performance, as determined by the town.

(vii) Conviction of a felony or a misdemeanor involving moral turpitude.

(viii) Acceptance of fees, gratuities or other valuable items in the performance of the employee's official duties for the town.

(ix) Inability, refusal or failure to perform the duties of the assigned job.

(x) Violation of duties or rules imposed by this manual, or by any other town, regulation or administrative order.

(e) This list is not all-inclusive, but only serves as a general guide. The town may discipline or terminate employees for other reasons not stated above or reasons that may not be stated herein.

(f) In the event that discipline is necessary, the following types of disciplinary actions may be used, depending on the particular situation:

(I) Oral warning. An oral warning is a counseling session between the employee's supervisor and the employee on the subject of the employee's conduct and performance, or their failure to observe a rule, regulation, or administrative instruction. It is intended to increase an employee's efficiency and value to the town changing the employee's conduct, attitude, habits, or work methods. Following the counseling session the supervisor shall document the oral warning.

(ii) Reprimand. A reprimand is a formal written disciplinary action for misconduct, inadequate performance, or repeated lesser infractions. Written reprimands are placed in the employee's personnel file.

(iii) Suspension. A suspension is a temporary, unpaid absence from duty, which may be imposed as a penalty for significant misconduct or repeated lesser infractions. A suspension is a severe disciplinary action which is made part of the employee's permanent record.

(g) Suspensions with pay, where the employee is placed on administrative leave, may be utilized by the chief executive officer pending the results of an investigation or disciplinary action where the chief executive officer determines that factors such as public confidence, the safety of the employee or the efficient functioning of the town call for such a suspension.

(8) Termination. (a) An employee may be terminated from town employment for any of the reasons listed below:

(I) During or at the end of the employee's trial period.

(ii) As a result of disciplinary action.

(iii) Due to loss of skills, certifications or other conditions which would make the employee unfit for service.

(iv) When the board of mayor and aldermen or chief executive officer has made a determination that a lack of work for funding exists with respect to the employee's position.

(v) If the employee has a physical or mental impairment that prevents the employee from performing the required duties of the employee's position and the employee cannot be reasonably accommodated. Termination must be supported by medical

evidence which establishes that the individual is unable to perform bona fide job requirements. The town may require an examination at its expense performed by a physician of its choice. Failure to submit to such request may result in termination.

(vi) Whenever the chief executive officer determines to make changes deemed to be in the best interest of the town. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-103. Classes of employees.** (1) Regular full time. Regular full-time employees are individuals employed by the municipal government who work more than thirty five (35) hours per week, and have completed at least a ninety (90) day introductory period. Regular full-time employees receive full benefits unless specifically excluded by the town charter, code, or ordinances.

(2) Regular part time. Regular part-time employees are individuals who work on a daily basis and whose hours cannot exceed twenty (20) hours per week unless approved by the mayor. Regular part-time employees are excluded from all benefits afforded full-time employees. The board of mayor and aldermen may, at its discretion, provide specific prorated benefits.

(3) Temporary full-time employee. A temporary full-time employee is an individual who works for the city/town for no more than six (6) months during one (1) calendar year. Temporary employees receive no benefits.

(4) Temporary part-time employee. A part-time employee is an individual who works not more than twenty (20) hours per week. Temporary part-time employees receive no benefits.

(5) Volunteer employee. A volunteer is an individual who works for the town for little or no compensation.

(6) Police reserve. Reserve officers are appointed by the mayor with the approval of board. Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy.

(7) Paid volunteer firefighter. A paid volunteer firefighter is an individual who receives a monthly allowance (not compensation for the work that they perform) to encourage him or her to donate time to the fire department and to nominally reimburse him or her for out-of-pocket expenses incurred in responding to alarms, attending training, and other activities performed on behalf of the city and the fire department. The amount is set by the board of mayor and alderman in conjunction with the annual budget. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-104. Working hours.** (1) A normal working schedule for regular, full-time employees consists of forty (40) hours each workweek. Different work schedules, such as in the case of police employees, may be established by the town to meet job assignments and provide necessary town services. Each

employee's department head will advise the employee regarding their specific working hours.

(2) Part-time and temporary employees will work as specified by their department heads. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-105. Compensation.** (1) Salaries. Board shall approve all salaries and wages paid by the town. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

(a) Employees shall be paid within the limits of the salary range to which their positions are assigned.

(b) Usually, new employees will start their employment at the minimum salary rate for their classification. However, a new employee may be employed at a higher rate than the minimum when the employee's experience, training or proven capability warrant, or when prevailing market conditions require a starting rate greater than the minimum.

(c) Pay increases are contingent on satisfactory performance. If an employee's performance is consistently unsatisfactory, the chief executive officer or designee may defer a scheduled pay increase for a stipulated period of time or until the employee's job performance is satisfactory.

(d) The chief executive officer may propose and the board of mayor and aldermen may grant an across the board pay adjustment (cost-of living increase) from time to time, raising the salaries of all positions by a specified amount within a defined group of classifications. Such adjustments, if any, will not change an employee's pay anniversary date.

(2) Hours of work. Board shall establish the hours of work per day and per week for each position in the service of the town. A day shall mean eight (8) hours of work or as defined by the Fair Labor Standards Act. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor within the period established by board.

(3) Citizenship and alien status verification. The town will not discriminate based on a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the town will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will not be hired.

(4) Introductory period. Applicants appointed to position with the Town of Cumberland Gap are required to serve a ninety (90) day introductory period. This is a period of time for the employer to observe work habits, performance, and attitude, and it is also a time for the employee to determine whether the work is suitable. During this period, the employee's work performance will be subject to review regarding the competence of the employee to fill the position. An employee may be terminated during this period for any reason, or for no reason, without respect or reference to the procedures set forth in this document, the charter, or other ordinances. If the introductory period is satisfactory, the employee may be recommended for a full-time appointment. The introductory period may be extended by the mayor when written notification is given to the employee with reasons for the extension. Benefits begin after the introductory period.

(5) Transfers. A transfer of an employee, or employees, among the various departments in the town may be approved by board upon the recommendation of the mayor. A transfer may be implemented due to reductions in force, or whenever board feels that a transfer is in the best interest of the employee of the town. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to disability, to continue to perform the essential functions of the job.

(6) Promotions/demotions. Promotions or demotions may be approved by board upon the recommendation of the mayor. A demotion may be implemented as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions on the job.

(7) Call back. (a) All employees are subject to call back in emergencies or as needed by the town to provide necessary services to the public. A refusal to respond to a call back is grounds for immediate disciplinary action, including possible termination. Employees called back to duty will be paid their appropriate rate of pay for hours worked (the overtime rate, if applicable).

(b) A candidate may be disqualified from consideration if:

(I) Found physically unable to perform the duties of the position (and the individual's condition cannot reasonably be accommodated in the workplace);

(ii) The candidate refuses to submit to a medical or complete history forms; or

(iii) If the exam reveals use of alcohol and/or controlled substance.

(8) Hiring. (a) Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least eighteen (18) years old and will be required to present a valid state driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the town, may be disqualified for employment with the town in positions requiring driving.



(b) The town may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the town. The town may contract with any competent agency or individual to prepare and/or administer examinations.

(c) After an offer of employment has been made and prior to commencement of employment, the employee shall not receive either overtime pay or compensatory time in lieu of overtime pay.

(9) Compensatory time. (a) Non-exempt employees entitled to overtime pay may elect to receive compensatory time off instead of cash payment. This is approved on a case-by-case basis by the employee's department head. If the compensatory time option is exercised, the employee is credited with one and one-half times (1 1/2) the hours worked as overtime. Maximum accruals of compensatory time shall be limited to forty (40) hours for regular employees, seventy-two (72) hours for fire personnel and eighty (80) hours for uniformed police personnel. After maximum accrual, overtime compensation shall be paid.

(b) Employees may use compensatory time within a reasonable time period after making a request to their department head, unless doing so would unduly disrupt town operations. Compensatory time should be used for short-term absences from work during times mutually agreed to by the employee and the department head. Accumulation of compensatory time to be used as a substitute for extended vacation time off is not normally permitted.

(c) If an employee is unable to use accrued compensatory time within a reasonable period, usually ninety (90) days, the employee will be paid for their original overtime wage.

(10) Attendance. (a) Punctual and consistent attendance is a condition of employment. Each department head is responsible for maintaining an accurate attendance record of their employees.

(b) Employees unable to work or unable to report to work on time should notify their supervisor as soon as possible, ordinarily before the work day begins or within thirty (30) minutes of the employee's usual starting time. If an absence continues beyond one day, the employee is responsible for reporting in each day. If the supervisor is unavailable, the employee may leave a message with the chief executive officer or designated representative, stating the reason for being late or unable to report for work.

(c) Employees are expected to be at work even during inclement weather. Department heads may allow employees to be late or leave early during severe weather conditions; however, non-attendance will be counted as absence from work and will be charged to accrued vacation time.

(d) An employee who is absent without authorization or notification is subject to disciplinary action, including possible termination.

(11) Leave without pay. (a) The chief executive officer or designee may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for all ill relative, pursuing an education, or fulfilling a military obligation in excess of fifteen (15) days per year.

(b) Only regular full-time and part-time employees who have satisfactorily completed their trial period are eligible for leave without pay. The following requirements apply:

(i) Leave may be granted to an employee for a period of up to ninety (90) days upon the approval of the chief executive officer or designee. Further extensions are at the discretion of the chief executive officer or designee.

(ii) Accrued compensatory time, if any, and vacation leave must be exhausted before taking any leave without pay.

(iii) An employee's benefits are suspended during the period of unpaid leave until the employee returns to work. Vacation, sick leave and/or any other benefits do not accrue while an employee is on leave without pay.

(iv) In certain circumstances, self-payment of benefits may apply. See Section 6.3 on Insurance Benefits.

(v) An employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned. An employee returning from a temporary position at a comparable rate of pay.

(vi) If the leave without pay is due to an illness, the town may require a doctor's certificate stating that the employee is capable of returning to work and performing the work, duties and responsibilities of the employee's position.

(12) Jury and witness leave. (a) Employees may be granted time off with pay to serve on a jury or as a court witness. If an employee is summoned during a critical work period, the town may ask the employee to request a waiver from duty.

(b) An employee granted such leave shall reimburse the town for any pay received while serving as a juror or witness.

(13) Administrative leave. On a case-by-case basis, the town may place an employee on administrative leave with pay for an indefinite period of time, as determined by the chief executive officer to be in the best interests of the town during the pendency of an investigation or other administrative proceeding.

(14) Military leave. Employees who are members of the National Guard or federal reserve military units may be absent from their duties, for a period of up to fifteen (15) days per calendar year when they are performing ordered military training duty and while going to and from that duty.

(15) Religious holidays. If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with the department head's approval, take the day off using vacation, compensatory time, or leave without pay. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-106. Social security.** (1) Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Cumberland Gap to provide of all eligible employees of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance to said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations.

(2) Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees as provided in the preceding section.

(3) Withholdings from salaries or wages. Withholdings from the salaries or wages of employees for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations.

(4) Appropriations for employer's contributions. These shall be appropriated from available funds such amounts at such times as may be required by the applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations.

(5) Records and reports to be made. The recorder and treasurer shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #8-2003, Aug. 2003)

**4-107. Travel away from the town.** (1) In the interpretation and application of this section, the term "traveler" or "authorized traveler" 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 section. "Authorized traveler" shall not include the spouse,

children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this section.

(2) All travel away from the town must be approved in advance by the mayor or vice mayor. Prior to travel a "request for travel" form must be filed out and approved. Unauthorized travel cost may not be reimbursed.

(3) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. 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 mayor. Tips, not to exceed fifteen percent (15%), for meals, taxis or baggage handling are reimbursable. All expenses for alcoholic beverages will be excluded.

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

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

(6) The travel expense reimbursement form will be used to document all expense claims. The form must be signed by the employee and the supervisor.

(7) To qualify for reimbursement, travel expenses must be directly related to the conduct of the town business for which travel was authorized; and actual, reasonable and necessary under the circumstances. The mayor may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.

(8) Claims 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.

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

(10) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement.

(11) Travel reimbursement rate schedules. Authorized travelers are reimbursed according to the State of Tennessee travel regulation rates. The town'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. (Ord. #8-2003, Aug. 2003, as replaced by Ord. #8-2013, Oct. 2013)

**4-108. Compensation upon termination.** When an employee's employment with the town is terminated, the employee will receive the following compensation:

- (1) Regular wages for all hours worked up to the time of termination which have not already been paid.
- (2) Any overtime or holiday pay due.
- (3) A lump sum payment of any accrued but unused vacation and compensatory time. (Ord. #8-2003, Aug. 2003)

**4-109. Performance evaluations and training.** (1) To achieve the town's goal to train, promote and retain the best-qualified employee for every job, the town may conduct periodic performance evaluations for all positions.

(2) The chief executive officer is responsible for developing and maintaining the town's performance evaluation program.

(3) Employees are to be evaluated by their department heads prior to completion of their trial period and at least once every twelve (12) months thereafter.

(4) The evaluation is part of an employee's personnel record and may be a factor in determining the employee's conversion to regular status, whether the employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated. (Ord. #8-2003, Aug. 2003)

**4-110. Training policy.** The town seeks, within the limits of available resources, to offer training to increase an employee's skills, knowledge and abilities directly related to town employment, to obtain or maintain required licenses and certifications, and to develop staff resources. Opportunities may include, but are not limited to: on-the-job training, in-house workshops, and seminars sponsored by other agencies or organizations. (Ord. #8-2003, Aug. 2003)

**4-111. Vacation and sick leave.** (1) Applicability of chapter. (a) This chapter shall apply to all full-time municipal employees except those operating under the jurisdiction of a school, utility, or other separate board or commission.

(b) All new employees must satisfactorily complete their trial period to be entitled the accrual and use of vacation leave. Regular part-time employees will receive vacation on a pro-rata basis. Temporary employees are not eligible for any vacation benefits.

(2) Vacation leave. All full-time employees shall be allowed .83 days per month of annual vacation leave with pay after one year of employment. All vacation days are based on a calendar year January 1 through December 31.

Such vacation leave shall be taken at a time approved by the mayor or such other officer as he may designate. At no time shall a person's total credit for accrued vacation leave exceed ten (10) days for the first five (5) years, and fifteen (15) days after five (5) years. See chart below.

<b>REGULAR FULL-TIME EMPLOYEES</b>		
<b>Years of Service</b>	<b>Days Earned Per Month</b>	<b>Days per Year</b>
1 to 5	.83 days	10
5+	1.25	15

(3) Sick leave. All full-time employees shall be given a credit of one-half (1/2) working day of sick leave with pay for each month of employment hereafter served. Sick leave shall be taken only when approved by the mayor or such other officer as he may designate. Sick leave, up to the number of days accrued, shall be approved for all full-time employees whose absence from duty is due to illness, bodily injury, exposure to contagious disease, or death in the immediate family of the employee. However, the mayor may, in his discretion, require doctors' certificates or other satisfactory evidence that absences are properly chargeable as sick leave. The maximum credit for accrued sick leave under the provisions of this section shall be thirty (30) days.

(a) Employees who use all their accumulated sick leave and require more time off work due to illness or injury may, with their department head's prior approval, take leave without pay.

(4) Termination or resignation. Upon termination or resignation, any unused sick leave shall not be cashed in for compensation. After an employee has exhausted his/her accrued sick leave, a leave of absence without pay may be granted, at the discretion of the mayor as a reasonable accommodation to people with disabilities, or the employee may be placed on special leave without pay, or the employee may be terminated if he/she is unable to perform his/her job or another job with or without reasonable accommodation. Should the employee be able later to return to work, upon presentation of certification by a doctor, he/she shall be given preference for a position for which he/she is qualified.

(5) Leave records. The mayor shall cause to be kept, for each employee, a record currently up to date at all times showing credit earned and leave taken under this chapter. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-112. Benefits.** (1) Eligibility. All full-time regular employees are eligible for all benefits provided by the town, subject to required waiting periods identified elsewhere in these policies.

(2) Holidays. All full-time employees are allowed a day off with pay on the following six (6) holidays.

<b>HOLIDAY</b>	<b>OBSERVED</b>	<b>NO. OF HOURS PAID</b>
New Year's Day	January 1	8
Memorial Day	Last Monday in May	8
Independence Day	July 4	8
Labor Day	First Monday in September	8
Thanksgiving Day	Fourth Thursday in November	8
Christmas Day	December 25	8

If a holiday falls on Sunday, it will be observed the following Monday. If the holiday falls on Saturday, it will be observed on the preceding Friday. To receive compensation for the holiday, full-time employees must be in a pay status on the workday before and on the workday after the holiday unless otherwise excused by the supervisor.

(3) Insurance allowance. In lieu of the town offering medical insurance to employees, all full-time employees who receive medical insurance elsewhere are eligible to receive an insurance reimbursement. The amount is set by board of mayor and aldermen in conjunction with the annual budget. Proof of insurance must be provided to the recorder on an annual basis. (Ord. #8-2003, Aug. 2003, as amended by Ord. #11-2013, Jan. 2014)

**4-113. Personnel regulations.** (1) Political activity. (a) Employees shall not politic while on city time, in uniform, or using a city vehicle. Town employees shall not serve on the board of mayor and aldermen.

(b) Except as noted in this policy, town employees are otherwise free to fully exercise their constitutional First Amendment Rights.

(2) No smoking policy. For health and safety considerations, the town prohibits smoking by employees in all town facilities, including town-owned buildings, vehicles, and offices or other facilities rented or leased by the town, including individual employee offices.

(3) Use of municipal time, facilities, etc. (a) Use of town phones for local personal phone calls should be kept to a minimum; long distance personal use is prohibited. Other town equipment, including vehicles, should be used by employees for town business only. An employees'

misuse of town services, telephones, vehicles, equipment or supplies can result in disciplinary action including termination.

(b) Information of special interest to all employees is posted regularly on the town bulletin boards. Employees may not post any information on these bulletin boards without the authorization of the town chief executive officer.

(c) The chief executive officer or designated department heads shall be responsible for all official contacts with the news media during working hours, including answering of questions from the media. The chief executive officer or department head may designate specific employees to give out procedural, factual or historical information on particular subjects.

(d) Anyone operating or riding in town vehicles must wear seat belts at all times if the vehicles are equipped with seat belts.

(e) As part of the requirements for certain specific town positions, an employee may be required to hold a valid state driver's license.

(f) If an employee's license is revoked, suspended or lost, or is in any other way not current, valid and in the employee's possession, the employee shall promptly notify the department head and will be immediately suspended from driving duties. The employee may not resume driving until proof of a valid, current license is provided to the department head.

(g) Depending on the duration of license suspension, revocation or other inability to drive, an employee may be subject to disciplinary action, including termination.

(h) Every employee is responsible for maintaining a safe work environment and following the town's safety rules. Negligence in adherence to on-the-job safety standards will be considered grounds for discipline and/or termination. Each employee shall promptly report all unsafe or potentially hazardous conditions to the department head. The town will make every effort to remedy problems as quickly as possible.

(i) In case of an accident involving a personal injury, regardless of how serious, employees shall immediately notify their department head and the chief executive officer.

(4) General policy. (a) The safety and welfare of the town's citizens shall at all times be held as a central mission of government. All town employees are expected to represent the town to the public in a professional manner which is courteous, efficient and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and department head.

(b) Since the proper working relationship between employees and the town depends on each employee's on-going job performance, professional conduct and behavior, the town has established certain



minimum standards of personal conduct. Among the town's expectations are: Basic tact and courtesy towards the public and fellow employees; adherence to town policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving and protecting the town's equipment, grounds, facilities and resources; and providing orderly and cost efficient services to its citizens.

(5) Strikes and unions. No municipal employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (Ord. #8-2003, Aug. 2003, as amended by Ord. #6-2006, Nov. 2006, and Ord. #11-2013, Jan. 2014)

**4-114. Vehicle use policy.** (1) Statement of policy. Generally, only town employees, members of the governing board, members of boards and committees appointed by the mayor or board engaged in the transportation of town personnel and/or material and supplies used to carry out the functions and operations of the department of the town, and for which the immediate use of a vehicle is actually necessary or convenient, shall drive or ride in the town-owned vehicles or use town-owned equipment.

(2) The following are exceptions to the above general policy:

(a) In emergencies where the town employee has a reasonable belief, based on a totality of circumstances, that the life, safety, health, or physical welfare of a citizen would be immediately threatened without the security and/or transportation the town-owned vehicle could provide him or her. Examples of such emergencies include, but are not limited to accidents involving personal injury, acute illness, and actual and potential victims of crime and violence.

(b) In motorist passenger assistance where there is no immediate emergency, but under a totality of circumstances, the town employee has a reasonable belief that the failure to transport the motorist and/or passengers in a town-owned vehicle could result in such person being left in real or potentially real danger, or would result in extreme inconvenience to them. The use of town-owned vehicle in such case shall be limited to transporting motorists and their passengers only to those places where they are reasonably safe, and have a reasonable opportunity to obtain continued help without further conveyance in a town-owned vehicle.

(c) When it is necessary for reasons of inclement weather, late hour, lack of transportation, or other reasonable cause, to transport non-town personnel to and from town-owned property, and to repair, supply and similar facilities, so that such personnel can install, repair, or maintain town equipment essential to the continuation or restoration of public services essential to the safety, health, and welfare of the citizens of the town.

(d) In the transportation of federal, state, and local officers and employees and the news media, private consultants, business persons, and other private persons visiting the town for the purpose of directly analyzing, reviewing, supporting, assisting or promoting the town's functions and operations.

(e) When the vehicle is being driven to or picked up from private maintenance or repair facilities, and while it is being "road-tested" while in the possession of such facilities.

(f) The Fire Department Operating Policy Manual and the Police Department Operating Policy Manual provisions that include the use of city owned vehicles are considered as part of the general policies of the town and as such are considered to be supplemental to the above stated policies.

(g) Vehicle storage. All vehicles are the property of the Town of Cumberland Gap. It may be necessary for multi-functional use of said vehicles and/or equipment for the overall good of the town. Therefore, all town owned vehicles are to be stored within the town garage or parking area unless the mayor and board of alderman have otherwise granted prior approval.

(h) Drivers license required. Persons authorized to drive or operate said vehicles and/or equipment are required to have a valid driver's license. (as added by Ord. #2-2004, Feb. 2004)

**4-115. Internet, e-mail, social media, and cyber security.** (1) The Internet is an important resource for information gathering. However, we must remember that not all Internet users have the town's best interest in mind. Employees must be alert for viruses and exercise good choices in what is downloaded from the Internet. The town's computers may not be used for personal communication, personal social media use, personal gain or profit, for any commercial solicitations, to interfere with the operation of internet gateways, for sending or replying to "chain letters" or to distribute or obtain offensive or inappropriate material. Most information and software that is accessible on the Internet is subject to copyright or other property rights protection, therefore, nothing should be copied or downloaded from the Internet for use by the town unless express permission to do so is stated by the material owner and town management.

With regards to user names and passwords, if these are set by management they shall not be changed except by permission of management. The employee must be aware that all files placed on town equipment become public property (this includes any personal files, the placement of which on town equipment is in violation of this policy). All files placed on town equipment shall be backed up in two (2) additional locations including a physical location such as a removable hard drive or SSD, as well as some form of cloud storage as approved by management.

When using social media an employee may not characterize themselves as representing the town, directly or indirectly, in any online posting unless pursuant to this policy or at the direction of a supervisor. The use of a town email address, job title, use of town uniforms, insignia, emblems, official town name or logo in conjunction with a posting shall be evidence of an attempt to represent the town in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity shall also be deemed evidence to represent the town in an official capacity. When posting in a personal capacity an employee should take reasonable care to distinguish that content is a personal expression and not that of the town.

(2) Cyber security. Do not allow any external storage devices to be attached to town equipment without the permission of management. When checking town e-mail, do not reply to e-mails that look strange or click on links in unfamiliar e-mails. Report any of these to management immediately. Do not forward these e-mails to anyone unless told to do so. Do not dispose of any town IT equipment without management approval, and all electronic equipment which may contain sensitive information shall only be disposed of in a manner which cleans and eliminates such information from the equipment, and in a manner prescribed by town management.

To help ensure the security of the town's technology, users shall not:

- (a) Share access codes or passwords.
- (b) Use accounts, access codes, privileges, or IT resources for which they are not authorized.
- (c) Tamper, modify, or alter any restrictions or protections placed on town IT equipment or software.
- (d) Use town resources to introduce, create, or propagate SPAM, PHISHING email, computer viruses, worms, Trojan horses, or other malicious code.
- (e) Gain access to accounts for which they are not authorized.
- (f) Eavesdrop on or intercept other users' transmissions.
- (g) Attempt to degrade the performance or availability of any system.
- (h) Misrepresent their identity with actions such as IP address "spoofing," email address falsification, or social engineering.
- (i) Send email chain letters or mass mailings for purposes other than official town business.
- (j) Connect devices (such as switches, routers, hubs, computer systems, and wireless access points) to the town system without prior approval.
- (k) Include or request sensitive or confidential information be included in unprotected electronic communication (email, instant message, text message, etc.). (as added by Ord. #8-2020, Jan. 2021 *Ch8\_01-04-21*)

**4-116. Sensitive information.** (1) (a) The town adopts this sensitive information policy to help protect employees, customers, contractors, and the town from damages related to the loss or misuse of sensitive information. This policy will:

- (i) Define sensitive information.
- (ii) Describe the physical security of data when it is printed on paper.
- (iii) Describe the electronic security of data when stored and distributed.
- (iv) Place the town in compliance with state and federal law regarding identity theft protection.

(b) This policy enables the town to protect customers, reducing risk from identity fraud, and minimize potential damage to the town from fraudulent new accounts. The program will help the town:

- (i) Identify risks that signify potentially fraudulent activity within new or existing covered accounts.
- (ii) Detect risks when they occur in covered accounts.
- (iii) Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed.
- (iv) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program.

(2) Scope of the policy. This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers of the Town, including all personnel affiliated with third parties.

(3) Sensitive information. For purposes of this policy the following information shall be considered sensitive but may not be considered confidential under state law. If there are questions regarding the confidentiality of a particular item, the employee should contact management. Such sensitive information includes the following items whether stored in electronic or printed format:

- (a) Credit card information, including any of the following:
  - (i) Credit card number (in part or whole)
  - (ii) Credit card expiration date
  - (iii) Cardholder name
  - (iv) Cardholder address
- (b) Tax identification numbers, including:
  - (i) Social Security number
  - (ii) Business identification number
  - (iii) Employer identification numbers
- (c) Payroll information, including, among other information:
  - (i) Paychecks
  - (ii) Pay stubs

- (iii) Cafeteria plan check requests and associated paperwork
- (d) Medical information for any employee or customer, including but not limited to:
  - (i) Doctor names and claims.
  - (ii) Insurance claims.
  - (iii) Prescriptions.
  - (iv) Any related personal medical information.
- (e) Other personal information belonging to any customer, employee or contractor, examples of which include:
  - (i) Date of birth.
  - (ii) Address.
  - (iii) Phone numbers.
  - (iv) Maiden name.
  - (v) Names.
  - (vi) Customer number.

Town personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. Furthermore, this section should be read in conjunction with the Tennessee Public Records Act and the town's public records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he/she should contact their supervisor. If the town cannot resolve a conflict between this policy and the Tennessee Public Records Act, the town will contact the Tennessee Office of Open Records Counsel.

(4) Hard copy security and distribution. Each employee and contractor performing work for the town will comply with the following policies:

- (a) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
- (b) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
- (c) Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.
- (d) Do not dispose of paper documents with sensitive information except by shredding.
- (e) Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed, or shredded when not in use.
- (f) Municipal records, however, may only be destroyed in accordance with the city's records retention policy.

(5) Electronic distribution. Each employee and contractor performing work for the Town will comply with the following policies:

(a) Internally, sensitive information may be transmitted using approved town e-mail, provided such e-mail system is encrypted. All sensitive information must be encrypted when stored in an electronic format.

(b) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail: "*This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited.*" (as added by Ord. #8-2020, Jan. 2021 **Ch8\_01-04-21**)

## CHAPTER 2

### PERSONNEL SYSTEM

#### SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Personnel rules and regulations.
- 4-205. Records.
- 4-206. Right to contract for special services.
- 4-207. Discrimination.
- 4-208. Amendments.

**4-201. Purpose.** The purpose of this chapter is to establish a system of personnel administration in the Town of Cumberland Gap that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (Ord. #1-2001, Sept. 2001)

**4-202. Coverage.** 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 town'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) Town attorney;
- (5) Independent contractors;
- (6) People employed by the municipality for not more than three months during a fiscal year.
- (7) Volunteer personnel appointed without compensation; and
- (8) Town judge.

All employment positions of the municipal government not expressly exempt from coverage by this section shall be subject to the provisions of the town charter. (Ord. #1-2001, Sept. 2001)

**4-203. Administration.** The personnel system shall be administered by the mayor and the board of mayor and aldermen, who shall have the following duties and responsibilities:

(1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the town charter, and federal and state laws relating to personnel administration;

(2) Recommend to the board of mayor and aldermen policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this chapter, the town charter and the municipal code;

(3) Fix and establish the number of employees in the various town departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the town charter and code, and subject to the approval of the board of mayor and aldermen and budget limitations;

(4) Foster and develop programs for improving employee effectiveness, including training, safety, and health;

(5) Maintain records of all employees, subject to the provisions of this chapter of the town code, which shall include each employee's class, title, pay rates and other relevant data;

(6) Make periodic reports to the board of mayor and aldermen regarding administering the personnel system;

(7) Recommend a position classification plan and install and maintain such a plan upon approval by the board of mayor and aldermen;

(8) Prepare and recommend a pay plan for all municipal government employees;

(9) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government;

(10) Be responsible for certification of payrolls; and

(11) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

**4-204. Personnel rules and regulations.** The mayor and the board of mayor and aldermen shall develop rules and regulations, an employee handbook, necessary for effectively administering the personnel system. The board of mayor and aldermen shall adopt the rules presented to them by the mayor. If the board of mayor and aldermen has taken no action by the next board meeting after receiving the draft personnel rules and regulations, they shall become effective as if they have been adopted, and shall have the full force and effect of law.



Amendments to the rules and regulations shall be made in accordance with the procedure below. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their job than may already be given by the town charter. The town reserves the right to alter or change any or all of these rules without prior notice to employees. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

**4-205. Records.** The recorder shall maintain adequate records of the employment record of every employee as specified herein. (Ord. #1-2001, Sept. 2001)

**4-206. Right to contract for special services.** The board of mayor and aldermen may direct the mayor to contract with any competent agency for performing such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

**4-207. Discrimination.** No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, age, religious belief, or disability. (Ord. #1-2001, Sept. 2001)

**4-208. Amendments.** Amendments or revisions of these rules may be recommended for adoption by the board of mayor and aldermen. Such amendments or revisions of these rules shall become effective after approval by the governing body. (Ord. #1-2001, Sept. 2001, as amended by Ord. #11-2013, Jan. 2014)

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program plan.

**4-301. Title.** This chapter shall be known as the "Occupational Safety and Health Program Plan" for the employees of the Town of Cumberland Gap. (as added by Ord. #2-2013, April 2013)

**4-302. Purpose.** The Town of Cumberland Gap 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 and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #2-2013, April 2013)

**4-303. Coverage.** The provisions of the occupational safety and health program plan for the employees of the Town of Cumberland Gap shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #2-2013, April 2013)

**4-304. Standards authorized.** The occupational safety and health standards adopted by the Town of Cumberland Gap 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> (as added by Ord. #2-2013, April 2013)

**4-305. Variances from 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. (as added by Ord. #2-2013, April 2013)

**4-306. Administration.** For the purposes of this chapter, the chief of maintenance is designated as the safety director of the occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

operation<sup>1</sup> 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. (as added by Ord. #2-2013, April 2013)

**4-307. 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 Town of Cumberland Gap. (as added by Ord. #2-2013, April 2013)

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<sup>1</sup>The plan of operation can be found in this municipal code as Appendix D.