

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. PERSONNEL AND TRAVEL POLICIES.
2. DRUG AND ALCOHOL TESTING POLICY.

#### CHAPTER 1

### PERSONNEL AND TRAVEL POLICIES

#### SECTION

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**4-101. Personnel policy.** (1) Purpose. The purpose of this resolution is to establish a system of personnel administration in the City of Harrogate, Tennessee.

(2) At-will employer. The City of Harrogate, Tennessee is an at-will employer. Nothing in this chapter 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 (exception: see § 4-108 of this policy).
- (g) The city judge.

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

**14-102. Employees.** (1) Full-time. Full-time employees are individuals employed by the municipal government who normally work thirty-six (36) hours per week.

(2) Part-time. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than eight (8) hours a day and may work fewer than thirty-six (36) hours per week or who are temporary and/or seasonal employees.

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

(2) 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. Applications will remain on active status for six (6) months after accepted or until the job for which the application is submitted is filled, whichever period of time is less.

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.

(3) Interviews. All appointments will be preceded by an interview with the board of mayor and aldermen.

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

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

**4-104. Benefits.** (1) Holidays. 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.

The following days will be paid holidays. City hall will be closed on these days. Any employee required to work on a regular holiday will be granted an additional eight (8) hours pay for the holiday.

New Year's Day  
 Memorial Day  
 July 4th  
 Labor Day  
 Thanksgiving Day  
 Christmas Day

The following days are considered to be non-paid holidays. City hall will be closed on these days. If an employee is normally scheduled to work on one (1) of these days and the employee chooses to work, he or she will be paid regular pay only for that day.

Good Friday  
 Veterans Day  
 Friday Following Thanksgiving  
 Christmas Eve

If a holiday falls on Saturday, it will be observed on the preceding Friday. If a holiday falls on Sunday, it will be observed on the following Monday.

(2) Paid leave time. All full-time employees shall accumulate 6.67 hours of paid leave time for each month of work completed for the municipality. Paid leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed three (3) months of employment.

Employees shall not be paid for accrued paid leave upon the employee's termination, resignation or retirement.

Paid leave not used by the end of the calendar year may be carried over to the following year; however no more than twenty-four (24) hours may be carried over during any calendar year.

Paid leave will be scheduled in advance for the mutual convenience of the employee and the city so proper adjustments can be made in the work schedules. Supervisors preparing leave schedules will give choice of dates based on seniority of the personnel in their department, and an employee may not begin his/her paid leave until his/her request has been approved by the supervisor. (modified)

**4-105. Grievance procedures. Grievance policy.** The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, then discuss the problem with the mayor of the municipality. The mayor's decision is the last and final step in the process. The decision of the mayor is final and binding to all parties involved.

**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. (title VII of Civil Rights Act of 1964 – 42 USC §§ 2000e – 2000e-15; Equal Pay Act 1963 – 29 USC § 206(d); Age Discrimination in Employment Act – 29 USC §§ 621 et seq.; Americans With Disabilities Act – 42 USC §§ 506 et seq.)

(2) Sexual harassment prohibited. Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the title VI coordinator, city recorder or mayor.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will make the corrective action proportional to the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

(3) 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 USC §§ 656 et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, § 50-3-101, et seq.).

(4) Overtime compensation. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 CFR §§ 553.1 et seq.). Mistakes or errors in compensation shall be brought to the attention of the supervisor and will be corrected in a timely manner.

(5) 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 (Tennessee Code Annotated, § 8-33-109). 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 Veterans' Re-employment Rights (38 USC § 202-2016) and the Tennessee Military Leave Act (Tennessee Code Annotated, § 8-33-101, et seq.).

(6) Family and medical leave. If the municipality has fifty (50) or more employees on the payroll an eligible employee (one (1) who has been employed at least twelve (12) months and worked at least one thousand two hundred fifty (1,250) hours in the preceding twelve (12) months) will be provided up to twelve (12) calendar weeks of leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3). If eligible under FMLA, the employer may provide up to twenty-six (26) weeks of leave for an employee or family member who is the primary caretaker of the spouse, son, daughter, parent or next of kin of a servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty.

(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 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 CFR Part 199). Other employees as well as volunteers for the city including the volunteer fire fighters may be subject to drug testing in accordance with the drug testing policy of the municipality. The municipality's procedures for drug testing can be found in Appendix C of the municipal code.

(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 (Tennessee Code Annotated, § 8-50-601 – 604).

(10) 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.

(11) Voting. 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.

(12) 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. Unless the municipal governing body passes a proper municipal ordinance, 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 (Tennessee Code Annotated, § 7-51-1501).

(13) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by Tennessee Code Annotated, § 6-54-901.

Travel regulations herein govern travel on official business for the City of Harrogate and apply to all city personnel and elected and appointed officials. Travel expenses for spouse, children, or other guests will not be paid by the city. The mayor and city recorder are responsible for enforcement of this travel policy.

City personnel who travel on official city business should receive prior approval from the mayor. Unauthorized travel costs may not be reimbursed.

Prior to travel the employee should furnish the mayor a "request for travel" form showing a reasonable estimate of all costs associated with the trip

and the amount of advance money requested. Registration fees, airfares, and similar expenses are to be invoiced directly to the city. If travel is for the purpose of attending a conference or seminar, a copy of the program should be attached to the request for travel form either before or after the trip.

City personnel should complete the "request for travel" form in a timely manner and submit it to the mayor for approval upon completion of travel. Receipts for lodging, vehicle rental, public carrier travel, meals and other costs are required except for taxis, tolls, tips, etc., less than five dollars (\$5.00). A brief summary of the context of the meeting or conference as it relates to the city should also accompany the travel form. All travel forms must be signed by the traveler; no stamped signatures will be allowed.

City personnel and officials should be prudent and cautious in the expenditure of all funds for official travel and should make use of discounts for early registration, airline tickets, and governmental rates for lodging or rental care expenses. Allowable expenses are those that are practical, necessary, and economical. Expenses incurred by and for persons other than city personnel are not reimbursable when official travel is combined with personal travel, only costs attributable to city business will be reimbursed. Authorized personnel and officials may use credit cards at the discretion of the mayor and the card will be returned to the city recorder's office immediately following travelers' return.

(a) Travel documentation. It is the responsibility of the authorized traveler to:

- (i) Prepare and accurately describe the travel;
- (ii) Certify the accuracy of the reimbursement request;
- (iii) Note on the reimbursement form all direct payments and travel advances made by the local government; and
- (iv) File the reimbursement form with the necessary supporting documents and original receipts.

The reimbursement form should be filed with the city recorder within ten (10) days of return or at the end of the month, whichever is more practical.

(b) Transportation. (i) Air. The city will pay for tourist or common class air travel. Airline travel should be planned sufficiently in advance to take advantage of any discounts so that tickets can be invoiced to the city.

Any mileage credits for frequent flyer programs will accrue to the individual traveler; however, the city will not pay for additional fees above regular cost for traveler to extend stays, circuitous routing, scheduling with a particular carrier, etc., in order to receive mileage credit.

The city will not reimburse travel by private aircraft unless authorized by the mayor in advance of travel.

(ii) Automobile. Automobile transportation may be used for official out-of-town travel when common carrier transportation

cannot be scheduled, when automobile travel is more economical, or when expenses can be reduced by two (2) or more city employees traveling together. Mileage will be paid for the use of a private vehicle from origin to destination by the most direct route when on official city business at a rate not to exceed the rate allowed by the Internal Revenue Service. Local travel related to official business in the area will be reimbursed.

Mileage for use of a privately owned vehicle transporting two (2) or more authorized travelers on the same trip will be paid to the owner or person who has custody of the vehicle.

City personnel traveling in city vehicles must furnish receipts for gas, oil, and any necessary automobile repairs.

Rental cars may be used when public transportation services are not sufficient or when it is less expense than other available means. Rental car usage must be approved by the mayor. Liability coverage listing the City of Harrogate as insured must be obtained from the vendor for any use of rental vehicles.

Fines for traffic or parking violations will not be reimbursed by the city.

Reasonable taxi or public transportation fares will be allowed when bus or limousine service from the airport is not furnished. Taxi fare will be allowed for travel between lodging quarters and meetings or conferences. The city will pay airport-parking fees provided such fees do not exceed normal taxi-limousine fares to and from the airport.

(c) Lodging. Lodging expenses paid by the city will be limited to the minimum number of nights required to conduct the assigned city business except in instances when it is financially advantageous to arrive earlier or stay later in order to obtain a discount air fare. The city will not pay for any additional expense if the traveler chooses to arrive earlier or stay later.

The city will pay lodging expenses at the single room rate, except when two (2) or more city personnel share a room. The maximum reimbursement for lodging is eighty dollars (\$80.00) per night, not including taxes, unless authorized in advance by the mayor. When making reservations, government or weekend rates should be requested if less than the conference or regular rate.

All costs for lodging must be supported by documentation.

(d) Development and communications. The mayor may utilize city credit cards or may otherwise claim reimbursement for valid and appropriate business and city-related meal and development expenses including but not limited to business meals with other officials, business location prospects, and other appropriate persons.

(e) Miscellaneous expenses/items. Registration fees for approved conferences, conventions, seminars, meetings, etc., will be allowed including cost of official banquets and/or luncheons. Travel should be approved by the mayor before registration is paid. Amount of registration must be shown on "request for travel" form. All trip-related travel expenses should be included on one "request for travel" form.

Tips and/or gratuities in excess of fifteen percent (15%) will not be reimbursed by the city.

Expenditures for laundry, in-room movies, valet services and other personal charges will not be paid by the city.

Official long distance telephone calls are allowed but only one (1) personal telephone call per day is permitted unless approved by the mayor. The maximum reimbursement for personal phone costs is five dollars (\$5.00) per day.

Telegrams-telegraph and facsimile service may be used for official communication if necessary and essential.

Special arrangements must be made with the mayor for attendance at schools, seminars, or institutes either in-state or out-of-state requiring absences from the city of one (1) week or longer. Police officers attending the FBI Academy on approval of the mayor are exempt from this requirement.

Any miscellaneous expenses must be explained on the completed "request for travel" form.

If fraudulent claims are discovered, disciplinary action may be taken with possible civil or criminal charges being filed on behalf of the city.

Any travel expenses not addressed above but which are incurred in the course of official city business will be evaluated on a case-by-case basis by the mayor.

(14) Computer use and email 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 intended to, and do 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 or uploaded by users to the internet, and reviewing email 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.

**4-107. Miscellaneous personnel policies.** Please note some of the policies in this section may be outlined in more detail in the city's ethics policy. Please refer to the city's ethics policies for more information (see ethics policy).

(1) Outside employment.<sup>1</sup> No full-time employee of the municipality may accept any outside employment without written authorization from the mayor.

(2) 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.

(3) 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.

**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.

(2) Name-clearing hearing. A name-clearing hearing will be given to any terminated, demoted, or suspended employee that requests one. This hearing will not be conducted to provide an employee any property rights. The purpose of the hearing is solely to let the employee clear his/her name.

**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 the need arises.

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<sup>1</sup>Municipal code reference

Code of ethics: title 1, ch. 4.

**CHAPTER 2**

**DRUG AND ALCOHOL TESTING POLICY**

**SECTION**

4-201. Drug and alcohol testing policy.

**4-201. Drug and alcohol testing policy.** The policies for drug and alcohol testing for the City of Harrogate are contained in their entirety in Appendix C.