

ARTICLE II. - PERSONNEL RULES



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Sec. 46-23. - Generally. 

(a)

Purpose. These policies are adopted to provide for the recruitment and development of the best available employee for each position in the personnel system of the city and to establish orderly procedures for administering that personnel system to be consistent with the following merit principles:

- (1) Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skill, including open competition of qualified applicants for initial appointment;
- (2) Establishing pay rates consistent with the principle of providing comparable pay for comparable work;
- (3) Training employees, as needed, to assure high-quality performance;
- (4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees when deemed appropriate and necessary;
- (5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sexual orientation, age, religion or handicapped status;
- (6) Establishing a procedure for the presentation and adjustment of employee grievances based on alleged injustice or inequality of treatment because of some conditions of their employment; or based on alleged discrimination because of race, color, national origin, sex, age, religion or handicapped status;
- (7) Assuring employees protection against partisan political coercion and prohibiting their use of official authority for interfering with or affecting the results of an election or the nomination for an office.

(b)

Administration. The responsibility for the administration and interpretation of the personnel rules and regulations are vested in the city manager in accordance with policy guidelines established by the mayor and council.

(c)

Applicability of policy. The provision of the city personnel policy shall not be applicable to part-time, seasonal, temporary, or volunteer employees except where specified.

(d)

Nepotism. No member of the immediate family of a department head may be hired or transferred into a department where a potential supervisor-subordinate relationship would exist. No relative of the city manager may be employed with the city. If two employees marry or become related, only one of the employees will be permitted to remain employed in the department. In addition, immediate family members should not be employed in the same city departments. Nothing in this section shall affect persons hired or transferred prior to

the adoption of this policy. The city may consider requests for variance from this section on a case-by-case basis, and upon city manager approval.

As used herein "related" and "immediate family" are synonymous and are to include spouse, child, step-child, grandchild, parent, grandparent, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, or the spouse of any of them. These relationships shall include those arising from adoptions, persons who are married by common law marriage or who are living together without the benefit of matrimony are also considered related under the intention of this rule.

(Code 1983, § 2-4-1; Ord. of 1-11-2007(1); Ord. No. 25-2010, 2-24-2011)

State law reference— "Discrimination" defined, O.C.G.A. § 45-19-22.

Sec. 46-24. - Classified or exempt service; at-will employees; emergency management. 

(a)

General allocation. All offices and positions of the city shall be allocated to the classified or exempt service.

(b)

Exempt service. The exempt service shall include the following:

(1)

All elected officials, city attorney and city judge;

(2)

Positions involving seasonal or part-time employment;

(3)

Volunteer personnel and personnel appointed to serve without compensation;

(4)

Consultants and council rendering temporary professional service.

(c)

Classified service. The classified service shall include all other positions in the city service which are not placed in the exempt service.

(d)

At-will employees. The city manager and the city clerk shall be "at-will" employees, serving at the pleasure of the city council, within the classified service of the city and all other employees within the classified service of the city shall be deemed to be "at-will" consistent with the provisions of the Charter. By providing for notices, hearings and appeals the city is in no manner altering the "at-will" status of employees in any respect.

(e)

Emergency management. Whenever salaried employees work in excess of 40 hours per week in response to hurricane preparation and recovery needs, they shall be temporarily classified as hourly employees and be eligible for overtime compensation as a result of their extraordinary duties and assignments during such periods.

(Code 1983, § 2-4-2; Ord. No. 25-2010, 2-24-2011)

Sec. 46-25. - Classification plan. 

(a)

Definition. The classification plan is the systematic grouping of positions into appropriate classes.

(1)

A position is a group of currently assigned duties and responsibilities requiring the full-time or part-time employment of one or more persons.

(2)

A class is a group of positions that:

a.

Has similar duties and responsibilities;

b.

Requires like qualifications; and

c.

Can be equitably compensated by the same salary range.

(3)

The class title is the official designation or name of the class to which a position has been assigned. It shall be used on all personnel actions.

(b)

Scope. The provisions of this section hereinafter set forth shall apply only to the classified service unless otherwise provided herein.

(c)

Establishment. A classification plan has been established and is maintained and filed at city hall. The plan is available for review by city employees.

(d)

Basis for position classification. Each position shall be assigned or allocated to an appropriate job classification on the basis of the kind and level of its duties and responsibilities to the end that all positions in the same classification shall be sufficiently alike to permit the use of a single descriptive title, the same tests of competence and the same salary range thus carrying out the basic principle of classification, which is equal pay for equal work. A job classification may contain one position or a number of positions. From time to time a review of the job classifications shall be undertaken by the city manager and a report thereof shall be made to the mayor and council.

(e)

Changes in classification plan.

(1)

The classification plan may be amended from time to time by the city manager, with the approval of the mayor and council. Such changes may result from the need of creating new positions, changes in organization, or changes in assigned duties and responsibilities.

(2)

The city manager shall review all requests for creation of new positions, the abolition or consolidation of present positions, reclassification of positions to different job classes, or the reallocation of

positions to new salary ranges. In such review the current duties and responsibilities of the position concerned will be studied and the appropriate action necessary to ensure the correct classification and allocation of the position will be taken, and, when necessary in connection with an amendment to the plan, with the approval of the mayor and council.

(3)

Each department head shall report to the city manager any changes in the organization or assignment of duties and responsibilities of a given employee which might result in changes in the position-classification plan or in the classification of any of the positions within the department.

(Code 1983, § 2-4-3; Ord. of 4-10-2008(3))

Sec. 46-26. - Pay for employees.

(a)

Pay plan. The pay of all employees is governed by the pay plan for the class of position in which they are employed. In arriving at salary ranges, consideration shall be given to prevailing rates for comparable work in other public employment and private business, the current cost of living, responsibilities of the position, and the city's financial condition and policy.

(b)

Pay steps. For each class of positions, a pay range is assigned, and for each class of positions within that range 12 pay steps are provided. Initial employment is normally at the first pay step for that position but in exceptional circumstances based upon experience or unusual qualifications of an applicant, an employee may be hired in a higher pay step.

(c)

Notice to employee of pay step and salary range. After each class or position has been assigned to a salary grade and the pay plan and rules for its administration have been adopted by the mayor and council, each employee shall be advised of the applicable pay step and the salary grade to which the position title has been assigned. When an employee attains the maximum step in the salary grade for his position, said employee shall not receive further salary increases unless:

(1)

The position is reclassified;

(2)

The employee is promoted to another position having a higher salary grade;

(3)

A general increase is granted to all employees;

(4)

Longevity pay is approved; or

(5)

Administrative salary adjustment - merit raise is approved.

(d)

New employee pay. Generally, a new employee will be paid at the minimum of the approved salary range for the position to which the new employee is appointed. In exceptional cases a new employee may be appointed at the second or higher pay step based upon experience or other qualifications.

(e)

Pay for promotions to higher class. When an employee is promoted to a position in a higher class, the employee's salary shall be increased to the minimum rate for the higher class. In the case of overlapping ranges the promoted employee shall be increased to the step immediately above the employee's present salary.

(f)

Reinstated employees. A reinstated employee shall be paid at a salary rate within the approved salary range for the position in which the employee is reinstated.

(g)

Rehired employees. Employees who voluntarily leave the city service and are subsequently rehired at a later date shall be considered a new employee. This means all benefits accrued during the previous period of employment are forfeited and length of service will be calculated from the most recent employment date.

(h)

Transfer. The pay of an employee transferred to another position of the same pay range shall remain unchanged.

(i)

Demotions. The pay of an employee demoted to a position of lower range shall be reduced to a step within the range to which the employee was demoted.

(j)

Administrative salary adjustments. The performance of each employee shall be reviewed annually during November through January, by the department head for the purpose of determining which employees shall receive merit increases or other changes. Personnel records, performance and length of service will be considered in making recommendations, with major emphasis on evaluation of services rendered by the employee. Based upon the employee's evaluation, the department head will make appropriate recommendations to the city manager for merit increases, promotions, demotions, transfers to other positions, training and education programs, and/or other appropriate personnel changes.

(Code 1983, § 2-4-4)

Sec. 46-27. - Recruitment and selection.

(a)

Recruitment for vacant positions.

(1)

All full-time vacancies shall be publicized by posting announcements and by other such means as necessary to assure obtaining well-qualified candidates for the positions. The announcement shall specify the title and salary range of the vacant position, minimum qualification requirements, manner of making application, final date on which applications shall be received, and other pertinent information. Every reasonable effort shall be made to publicize vacancies so that all interested persons are informed and qualified persons who are attracted to compete.

(2)

When a vacancy occurs, a recruitment plan will be developed by the city manager and the hiring authority based on current organizational needs.

(b)

Application process. Applications shall be made on forms provided by the city manager. Such forms shall require information covering training, experience, and other job related information. Applications shall be signed by the persons applying. All persons must be informed that the application will be placed in an active file for a period of six months.

(c)

Disqualification of applicants. The city manager may disqualify an applicant who does not meet the requirements for the position. An applicant may be disqualified for the practice or attempted practice of fraud or deception in the completion of his application.

(d)

Documentation to be submitted by applicant. The applicant may be required to submit proof of his education, military service or any other such documentation as deemed necessary.

(e)

Emergency hiring. In order to provide for necessary labor and services, at such times as a locally declared emergency exists and it is necessary to properly meet or cope with the emergency or disaster when the public health, welfare and safety are threatened, the city manager, without advertisement or posting, is hereby authorized at such time to hire, or authorize others to hire, as he or she deems necessary and to create any necessary positions to meet such state of emergency. Persons so hired shall be paid at a rate of pay as prescribed by council for skilled labor for city employees. Such appointment shall be temporary and any positions created temporary for the duration of the emergency declaration.

(Code 1983, § 2-4-5; Ord. of 7-13-2006)

Sec. 46-28. - Appointments; medical exams; probationary periods.

(a)

Recommendations and appointments. Department heads shall examine applications and applicants for employment and recommend to the city manager applicants for appointment to vacancies existing within their departments. Appointments shall be made on the basis of ability, training, and experience without regard to age, race, creed, national origin, sex, or handicap.

(b)

Types of appointments.

(1)

Permanent appointment. Appointment to permanent positions shall only be made when a vacancy in a permanent classification exists and such appointments shall be subject to a probationary period.

(2)

Temporary appointment. In the absence of an appropriate list for filling vacancies, temporary appointments may be made for a period not to exceed 12 months. No temporary appointments shall

be construed to confer tenure of office by the employee and any temporary appointment may be terminated at any time.

(3)

Emergency appointment. When an emergency exists and in order to prevent stoppage of public service or loss or convenience to the public, appointments may be made for periods not to exceed 30 days. Emergency appointments shall be reported immediately to the city manager.

(c)

Pre-employment medical examination. Prospective employees may be required to supply medical and health data, and complete a pre-employment medical examination as a condition for employment. The physician to conduct the examination shall be selected by the city and expenses for the examination assumed by the same.

(d)

Probationary period. Each employee receiving an appointment with the city shall complete a probationary period of 90 days. For law enforcement personnel, in appropriate positions, the probationary period shall not be considered complete until the employee has successfully completed the required basic training course, even if the time to complete the said training exceeds one year. However, under no circumstances will the probationary period be less than one year. Notwithstanding any other provisions a probationary employee may be terminated with or without cause at any time and the provisions of [section 46-33](#) are not applicable. At the conclusion of the probationary period, the department head shall recommend whether to:

(1)

Retain the employee in the present position and classification;

(2)

Assign the employee to an alternative position usually at a lower classification; or

(3)

Separate the employee from city service.

(Code 1983, § 2-4-6)

Sec. 46-29. - Drug free testing policy.

(a)

Statement of purpose. It is the policy of the city that the abuse of alcohol and drugs by public employees is detrimental to the health, safety and welfare of the public. The purpose of this section is to establish reasonable standards and procedures for drug and alcohol testing of city employees and applicants for employment for certain public health, safety and security positions within the city. The city also recognizes that individuals employed as municipal employees have certain rights to privacy. However, under applicable state and federal laws, the city's interest in protecting the health and safety of the public outweigh the individual employee's legitimate expectations of privacy. Accordingly, certain procedural safeguards, limitations, and due process guarantees are set forth in connection with the testing required by this section.

(b)

Scope of policy. Drug and alcohol abuse by city employees is prohibited. This shall include the illegal manufacture, distribution, possession or use of a controlled substance, the abuse of prescription medications, and the use of alcohol during or immediately preceding work hours or on city premises. This prohibition also

includes the unauthorized use of prescription drugs or the abuse of prescribed drugs. If an employee is directly observed using alcohol, or a controlled or illegal substance while on duty, the city expressly reserves the right to immediately terminate the employee without testing as provided in this policy. The employee may appeal such actions as per [section 46-35](#)

(c)

Testing for certain drugs. When drug and/or alcohol testing is required under the provisions of this section, a urinalysis test, or other appropriate test, will be given to detect the presence of the following drugs:

(1)

Alcohol (ethyl);

(2)

Amphetamines (e.g., speed);

(3)

Barbiturates (e.g., Amobarbital, Butabarbital, Phenobarbital, Secobarbital);

(4)

Cocaine;

(5)

Methaqualene (e.g., Quaalude);

(6)

Opiates (e.g., Codeine, Heroin, Morphine, Hydromorphone and Hydrocodone);

(7)

Phencyclidine (PCP);

(8)

THC (marijuana);

(9)

A metabolite of any such substances;

(10)

All drugs specified by the state as controlled substances;

(11)

All drugs required to be tested under applicable federal laws.

(d)

Testing of job applicants. As a condition of employment, an applicant may be tested where they are to hold a position involving public health, safety or security, or where otherwise required by state or federal law. The city manager, in cooperation with the council and mayor, will determine and provide a list of these positions. These positions can be changed or otherwise amended from time to time by the city manager. Such changes shall be posted and available to all employees.

(e)

Testing of current employees.

(1)

The city may require a current employee to undergo drug and/or alcohol testing if there is reasonable suspicion to believe that the employee is under the influence of drugs and/or alcohol during working hours. The term "reasonable suspicion" means a belief that can be articulated based upon specific facts and reasonable inferences drawn from those facts. Circumstances, which constitute a basis for determining reasonable suspicion, include, but are not limited to:

a.

A pattern of abnormal or erratic behavior;

b.

Observed use, possession or sale of illegal or prescription drugs or alcohol, or a report of same from a reliable source;

c.

Employee involvement in or contribution to a work-related accident;

d.

Presence of physical symptoms of drug or alcohol abuse (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or motor reflexes);

e.

Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of other drug/alcohol statutes;

f.

As part of a follow-up program for treatment of drug or alcohol abuse;

g.

When a substance abuse test is conducted as a part of a regularly scheduled employee fitness for duty medical examination that is scheduled routinely for members of an employment classification or group.

(2)

A supervisor is required to detail, in writing, on the designated personnel form, the specific facts, symptoms, or observations, which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designee as the city manager finds appropriate. These forms shall be considered confidential.

(f)

Random testing of employees. Employees may be randomly tested without reasonable suspicion when they are in a position involving public health, safety or security. Federal law under the department of transportation and the state department of transportation regulations require random and post-accident testing of all employees who possess a commercial drivers license which they utilize in the course of their job-related duties. The city manager will determine and provide a list of those employees who are subject to random drug/alcohol testing.

(g)

Employee arrest/conviction notification. If an employee is arrested or convicted (including pleas of nolo contendere) of violating any criminal drug statute of any jurisdiction, regardless if the alleged violation occurred

at the workplace or elsewhere, the employee must notify the city manager, in writing, within five calendar days of each arrest or conviction.

(h)

Prior notice of testing policy. The city shall provide written notice of its drug-free testing policy to all employees. This shall be accomplished by providing each existing employee with a copy of the drug-free testing policy and obtaining each employee's signature attesting that they have received a copy of the drug-free testing policy. Job applicants may be informed verbally or in writing of the existence of the city's drug-free testing policy. Furthermore, any job posting which requires a drug/alcohol screening shall state such in the job posting.

(i)

Consent form; information included. Before a drug and/or alcohol test is administered, employees and job applicants will be required to sign a consent form authorizing the test and permitting the release of test results to the appropriate individual within the city. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug-free testing policy and to indicate current or recent use of prescription or over-the-counter medication. The consent form shall also set forth the following information:

(1)

The need for drug and/or alcohol testing;

(2)

The circumstances under which testing may be required;

(3)

The procedure for confirming an initial positive test result;

(4)

The consequences of refusing to undergo a drug and/or alcohol test;

(5)

The right to explain a positive test result and the appeal procedures available; and

(6)

The availability of drug and alcohol abuse counseling and referral services.

(j)

Refusal to consent—Applicants. A job applicant who is subject to a pre-employment drug/alcohol screening, and who refuses to consent, will be denied employment with the city.

(k)

Same—Employees. An employee who refuses to consent to a drug and/or alcohol testing when reasonable suspicion has been identified, or where they are subject to random testing, is subject to disciplinary action, up to and including termination.

(l)

Confirmation of test results.

(1)

An employee or applicant whose test yields a positive result shall be given a second confirming test using a gas chromatography/mass spectrometry (G.C./M.S.) tests. The second test will be performed

on the same sample as the first test; the employee/applicant will not be permitted to submit a second sample.

(2)

If the second test confirms the positive test result, the employee or applicant shall be notified of the results, in writing, by the appropriate department head or designee. The letter of notification shall identify the particular substance found and its concentration level. A copy of the test results shall be included with the notification letter.

(3)

An employee or applicant whose second test confirms the original positive test result may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory selected by the city. The employee/applicant must respond to the notifying department head or designee, in writing, within five calendar days from receipt of notification of a positive test result, explaining and/or contesting the result, and/or requesting a third test conducted on the original sample.

(m)

Consequences of a confirmed positive result for applicants and employees.

(1)

Job applicants will be denied employment with the city if their initial positive results have been confirmed. Applicants will be notified in writing if they are rejected on the basis of a confirmed positive result.

(2)

If an employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination in accordance with [section 46-33](#)

(n)

Mandatory termination. Termination will be mandatory in the following cases:

(1)

Selling drugs on or off the job;

(2)

A positive drug or alcohol test while either on probation or while participating in a drug or alcohol treatment program;

(3)

A nolo plea, guilty plea or conviction of a second DUI offense;

(4)

A DUI offense (nolo plea, guilty plea or conviction) while operating a city vehicle;

(5)

A felony violation (nolo plea, guilty plea or conviction) of any controlled substance law.

(o)

Right to a hearing. If an employee is tested, and the employee's positive test result has been confirmed, the employee is entitled to an informal disciplinary hearing as per [section 46-33\(c\)](#), before any disciplinary action

may be taken by the city. Should any of the listed disciplinary actions be taken, the employee may appeal such actions as per [section 46-35](#)

(p)

Confidentiality of test results. All information from an employee's or applicant's drug and/or alcohol test is confidential under all applicable state and federal laws, and only those with a need to know are informed of the test results. Disclosures of test results to any person, agency, or organization, unless otherwise required by law, are prohibited unless written authorization is obtained from the employee or applicant. The records of the results of a positive drug test shall not be released until the results are confirmed. The records of a confirmed positive test result and the testing laboratory shall unless otherwise required by applicable law, destroy negative test results.

(q)

Laboratory testing requirements.

(1)

All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the city. To be considered as a testing site, the medical facility or laboratory must submit, in writing, a statement that their testing methods and facilities comply with all applicable federal and state laws, and provide a description of the procedures that will be used to conduct the test and to maintain the test samples.

(2)

Factors to be considered by the city in selecting a test site include:

a.

Testing procedures, which insure privacy to employees and applicants;

b.

Testing procedures consistent with the prevention of tampering with the samples;

c.

Methods of analysis, which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;

d.

Chain of custody procedures, which ensure proper identification, labeling and handling of test samples; and

e.

Retention and storage procedures which ensure reliable results on confirmation of tests on original samples.

(r)

Employee assistance program.

(1)

The city offers an employee assistance program (EAP) benefit for employees and their dependents who have personal problems. These may include, but are not limited to, alcoholism and drug abuse. Voluntary participation prior to an employee being requested to submit to a test is strongly

encouraged. In these situations, no disciplinary action shall be implemented because an employee volunteers to participate in such a program. Confidentiality is assured. No information regarding the nature of the problem will be made available without the participant's written permission, nor will it be included in the employee's personnel file.

(2)

However, participation in the EAP program will not protect an employee from disciplinary action or even termination after he has been requested or required to submit to a drug/alcohol test. In these cases, the EAP process may be used in conjunction with discipline, but not as a substitute for discipline. All employees who are referred to the EAP as a mandatory participant and who refuse to cooperate in counseling and rehabilitation for drug or alcohol use, or who are found to have used drugs or alcohol during the course of their treatment and rehabilitation, shall be subject to immediate termination. All participants in the EAP drug or alcohol programs are subject to random testing during the course of their treatment and rehabilitation.

(s)

Convicted employees' participation in rehabilitation. The city will notify any granting agency as defined in the Drug Free Workplace Act, within ten days after receiving notice of a conviction from an employee or otherwise receiving actual notice of such conviction and will impose a sanction on or require the satisfactory participation in a drug abuse assistance rehabilitation program by any such convicted employee as required by 41 USC 703 within 30 days of notice of such conviction.

(t)

Maintaining a drug free workplace. The city will make good faith efforts to maintain a drug free workplace through implementation of the provisions hereof and the Drug Free Workplace Act, 41 USC 701 et seq.

(Code 1983, §§ 2-4-6.1, 2-4-10.1)

Sec. 46-30. - Types of employment.

(a)

Full-time employees. Full-time employees shall be defined as personnel who regularly work 35 hours or more per week. Vacation, sick leave and holidays shall count as time worked for this purpose.

(b)

Part-time employees. Part-time employees are those employed to work less than 35 hours per week. Part-time employees who regularly work 35 hours per week are eligible to participate in the city's retirement program.

(c)

Seasonal and temporary. Seasonal and temporary employees are those employees who work either full-time or part-time, but are employed for a specified time period at the end of which they are separated from the city service.

(Code 1983, § 2-4-7)

Sec. 46-31. - Records.

(a)

Personnel transactions. All appointments, separations and other personnel transactions shall be made on forms designated by the city. A separate file folder shall be prepared and maintained for each employee and shall contain the original copy of all pertinent documents.

(b)

Confidential records; information for public inspection. All personnel records of employees covered under these policies and all other records and materials relating to the administration of the personnel system shall be considered confidential and the property of the city as provided by law. Information which is obtained in the course of official duties shall not be released by any employee other than by the city manager. The following information relative to employees and former employees is available for public inspection at reasonable times and in accordance with such procedures as the city manager may prescribe:

(1)

Name, class title and salary, selection records and performance rating report are accessible only to the department head concerned, the city manager, and the employee involved.

(2)

Other personnel information may be made available for official purposes at the discretion of the city manager.

(c)

Central personnel file. A central file of records on all personnel will be maintained. The file will contain for all employees:

(1)

Job application;

(2)

Copies of all position or pay rate changes;

(3)

Attendance records, including vacations, sick leave, and other leave; and

(4)

Other personnel action notices and personnel data required for the proper administration of the personnel program.

(d)

Personnel record changes. If, at any time, an employee's address, name, phone number, or other pertinent information changes, the change shall be immediately reported to the employee's department head and the city manager.

(Code 1983, § 2-4-8)

Sec. 46-32. - Separation of employees.

(a)

Types of separation.

(1)

Dismissal. An involuntary separation, except by expiration of term specified by law, suspension, layoff or retirement.

(2)

Suspension. Involuntary separation during a limited period for disciplinary purposes.

(3)

Resignation. Voluntary separation.

(4)

Layoff. Involuntary separation through no fault of the employee as by reason of lack of funds, changes in organization, completion of temporary or restricted employment or similar causes and without adverse effect on the employee's eligibility for further employment.

(5)

Retirement. Voluntary separation after age and length of service eligibility requirements have been met in a retirement program.

(b)

Resignation procedures. Unless otherwise specified by contract, department heads are required to submit notices in writing to the city manager at least 30 days in advance of their intent to resign in order to leave city service in good standing. All other employees are required to notify their department heads in writing two weeks in advance of their intent to resign in order to leave city service in good standing.

(Code 1983, § 2-4-9)

Sec. 46-33. - Disciplinary action.

(a)

Types of discipline.

(1)

Reprimand. An oral or written advisement to the employee that some phase of the employee's work performance is not satisfactory and must be corrected to prevent the employee from exposure to more severe disciplinary action. Reprimands may be given by the department heads.

(2)

Suspension. Temporary separation without pay from the service for disciplinary purposes where the case is not sufficiently grave to merit dismissal. An employee may be suspended by the appropriate department head with approval from the city manager.

(3)

Demotions. Demotions are necessary in order that employees whose work has not been satisfactory, but who do not deserve dismissal, may be retained and assigned less difficult work. An employee may be demoted by the appropriate department head with approval from the city manager.

(4)

Dismissals. Dismissals are necessary as a result of inadequate or inefficient performance or when such action is deemed necessary and appropriate by the supervisor and/or the city manager. Consistent with the provisions of the city's charter, employees serve "at-will" and can be dismissed with or without cause.

(b)

Causes for discipline. Notwithstanding any other provision hereof or the progressive discipline system provided for herein or which may hereafter be established, the at-will status of employees contemplated by the city's charter is at all times applicable. In addition, an employee may be reprimanded, suspended, demoted or dismissed for the following reasons:

(1)

Incompetence or inefficiency in the performance of the duties of the position;

(2)

Violation of any lawful official regulation or order, or failure to obey any proper direction made and given by a superior;

(3)

Misappropriation, destruction, theft or conversion of city property;

(4)

Falsification of any information required by the city;

(5)

Negligence or carelessness resulting in damage to city property or equipment;

(6)

Offensive conduct or language in public or toward the public, city officials, or fellow employees, either on or off duty;

(7)

Habitual tardiness and/or absenteeism;

(8)

Takes for personal use from any person, any fee, bribe, gift, token, monies or other valuable things given in the hope or expectation of receiving a favor or better treatment than that accorded other persons; nor shall the employee accept any fee, bribe, gift, token, monies or other things of value intended as an inducement to perform or refrain from performing any official act;

(9)

Introduction, possession or unlawful use on city property or in city equipment of controlled substances as defined by O.C.G.A. §§ 16-13-25—16-13-29;

(10)

Employee subsequently becomes physically or mentally unfit for the performance of duties;

(11)

Absences without leave or failure to give proper notice of absences;

(12)

Conviction of a felony or other crime involving moral turpitude;

(13)

Willful violation of any provision of this policy;

(14)

Sexual harassment.

Disciplinary action against an employee based on age, creed, national origin, race or sex, or for partisan reasons shall be considered a violation of these rules.

(c)

Informal disciplinary hearing.

(1)

Informal disciplinary hearing. Before an employee other than a department head is suspended without pay, demoted, or dismissed from employment, he shall be entitled to an informal hearing before the department head. At least 12 hours prior to such a hearing, the employee will be furnished with a written notice stating the disciplinary action contemplated, and the reasons for such actions. This notice should advise the employee that he will have an opportunity to respond in writing and/or orally before the department head at the time of the hearing so as to effectively rebut the reasons for disciplinary action contemplated. Following the hearing the department head shall confer with the city manager and personnel director, obtain the city manager's approval of appropriate action to be taken, and orally and in writing advise the employee of his decision; and in the event that disciplinary action is taken against the employee the department head shall orally and in writing advise the employee of the reasons for such action and that the employee may appeal the department head's decision. If disciplinary action is taken, it shall become effective immediately. A notice of the action taken, with a statement of the reasons therefor, will be filed in the office of the personnel director prior to closing of the succeeding business day.

(2)

Disciplinary action against department heads shall be administered by the city manager in accordance with a hearing procedure requiring at least 12 hours notice to the department head and the opportunity for the department head to respond and present evidence. No appeal is permissible from the city manager's decision by a department head.

(d)

Suspension with pay prior to hearing. In any extraordinary situation where an employee is unfit to perform his work under circumstances where retention of the employee pending a hearing might result in damage to the property or injury to the employee or other persons or the employee is physically unable to perform his duties, or retention might be detrimental to the interest of the city government or pending an investigation of disciplinary issues, an employee may be suspended temporarily with pay prior to a hearing. A hearing will then be scheduled as soon as practicable to determine whether the temporary suspension was without pay, if the employee desires such a hearing. The provisions of subsection (c) of this section and this subsection shall not apply to probationary employees.

(Code 1983, § 2-4-10; Ord. No. 25-2010, 2-24-2011)

Sec. 46-34. - Sexual harassment.

(a)

Goal. The city has a goal of establishing a workplace free from sexual harassment. Every employee of the city has a duty to protect and safeguard the rights and opportunities of every other employee to seek, obtain, and hold employment without subjugation to sexual harassment of any kind in the workplace. Ensuring a workplace

environment free of sexual harassment is a goal that all employees are to share and to work together toward achieving. All employees are responsible for the implementation of and compliance with this goal.

(b)

Definition.

(1)

Sexual harassment is defined as:

a.

Making unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to, or rejection of such conduct is made, explicitly or implicitly, and basis for any decision affecting employee status (e.g., pay, promotion, assignment, termination, etc.); or

b.

Creating an intimidating, hostile or offensive work environment through:

1.

Verbal conduct such as sexual innuendoes, suggestive comments, jokes of a sexual nature or sexual propositions;

2.

Nonverbal conduct such as sexual suggestive objects or pictures, graphic commentaries, leering, whistling, or obscene gestures; or

3.

Physical conduct such as unwanted physical contact of any nature including touching, pinching or brushing the body.

(2)

Such conduct is prohibited in the workplace.

(3)

The term "harassment" generally suggests a pattern of conduct; however, an isolated instance of conduct as described above could constitute harassment depending on the circumstances of the particular incident.

(c)

Implementation.

(1)

The city requests and encourages any employee who believes that he has been subjected to any such prohibited conduct described above by any other employee to report the incident to his immediate supervisor.

(2)

If the alleged conduct is that of the immediate supervisor, the employee is encouraged to report such incident directly to the department head.

(3)

If the alleged conduct is that of the department head the employee is encouraged to report such incident to the city manager.

(4)

The immediate supervisor, department head, or city manager, as applicable, shall conduct a prompt, confidential investigation of all alleged incidents of prohibited conduct. Any employee who is found to have either engaged in, or condoned prohibited conduct will be subject to disciplinary action, as appropriate, up to and including termination.

(d)

Nonretaliation. This goal also prohibits retaliation against employees who bring harassment charges or assist in investigating charges. Any employee bringing a sexual harassment complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment, nor discriminated against or discharged because of the complaint.

(e)

Appeals. Decisions made under this section may be appealed in the same manner as any other personnel decision, pursuant to [section 46-35](#)

(Code 1983, § 2-4-10.2)

Sec. 46-35. - Appeal of disciplinary action.

After any suspension without pay, demotion, or dismissal from city employment, the affected employee shall have the right to appeal within five days after the effective date of the disciplinary action. The employee should notify the city manager in writing of his desire to have a hearing. The city manager shall promptly notify the employee of the time of the hearing in writing, the reasons for the disciplinary action taken, the names and the nature of the testimony of the witnesses against him, and that the employee will have an opportunity to present evidence on the issues.

(Code 1983, § 2-4-11)

Sec. 46-36. - Grievances.

(a)

In general. The effective accomplishment of the work of the city requires prompt consideration and equitable adjustment of employee grievances. It is the desire of the city to adjust the causes of grievances informally, and the city manager, department heads and employees are expected to make every effort to resolve problems as they arise.

(b)

Procedure follows lines of authority. In the city, procedures follow the established lines of authority. An employee first discusses the problem with the appropriate department head within 30 calendar days from the date the grievant first becomes aware of his grievance.

(c)

Grievance presented to city manager. If satisfaction is not achieved by the above procedure within ten working days, the grievance must then be presented by the grievant to the city manager. Grievance problems carried to the city manager must be submitted in writing.

(d)

Meeting to discuss grievance. The city manager shall convene a meeting within ten days to consider the grievance. The employee and the department head shall have the right to appear and be heard. The city manager shall take appropriate action which may include a recommendation to change the personnel rules and regulations, a finding that the grievance is unjustified or a finding that the situation is not subject to the grievance procedure or not a grievable matter or any other appropriate recommendation or determination.

(e)

Effect of using grievance procedure. No employee shall be disciplined or discriminated against in any way for proper use of the grievance procedure.

(Code 1983, § 2-4-12; Ord. No. 25-2010, 2-24-2011)

Sec. 46-37. - Annual leave.

Annual leave is based on years of service to the city and is computed as follows:

(1)

Permanent appointments—Full-time employees. Employees who have a permanent appointment and work full-time, in their first year of service earn one-half of a day per month of annual leave, or six work days in the first year. Accumulation begins as soon as employment begins, but annual leave may not be taken until after three months of continuous employment with the city. Employees with one or more years of continuous service earn leave at the rate of one day per month, or 12 work days per year. Employees with ten or more years of continuous service earn leave at the rate of 1½ days per month, or 18 work days per year.

(2)

Service requirement. Vacation leave is earned during any month in which the employee is at work at least one-half the work days within that month.

(3)

Vacation leave schedule.

a.

Vacation leave shall be scheduled by the department heads, and approved by the city manager, with particular attention to seniority of employees, departmental operating requirements, and insofar as possible, the requests of the employees.

b.

Employees shall submit in writing a request for vacation leave to their department head prior to the desired vacation date.

c.

Vacation leave may not be taken in increments of less than one-half day.

d.

Vacation leave may be accrued to a maximum of 30 days.

(4)

Pay in lieu of vacation leave. Any employee eligible for vacation time may elect to be paid for not more than 40 hours of accrued vacation leave once each year by notifying the appropriate

department head on the form provided for this purpose, provided the employee has taken off a minimum 40 hours' vacation prior to this request, during the same calendar year, and provided that permission is approved by both the department head and the city manager.

(5)

Employee donation of vacation leave. An employee may elect to donate some portion of his/her accrued vacation leave to another employee in need under the following conditions:

a.

Such vacation leave must be transferred, on an hourly basis as opposed to a cost basis. The donee may only use the donated time for actual sick leave.

b.

The recipient must be in need of additional leave time for personal illness or illness of a family member and must be at the point of taking leave without pay.

c.

Vacation leave, once donated, shall not be given back to the donor except where the conditions of subsection b. above are met.

d.

In no case shall the donor transfer vacation leave to another employee for the single purpose of avoiding losing vacation leave.

e.

The sale or trade of vacation leave for purposes which would circumvent the spirit of this procedure is prohibited.

f.

Requests to donate vacation leave should be made in writing to the department head and the city manager.

(6)

Possible requirement of vacation leave. The city recognizes the benefit of employees having time off for leisure and recreation. Department heads and/or the city manager may therefore require employees to utilize a maximum of 40 hours' vacation leave each calendar year as time off from work.

(7)

Other employees.

a.

Employees who have a permanent appointment and work part-time, earn annual leave on a prorated basis, as determined by the city manager, computed on the basis of the ratio of hours worked during the prior three-month period relative to the work defined for full-time employment.

b.

Employees who have a temporary appointment and work full-time, other than seasonal employees, earn annual leave on the same basis as employees who have permanent appointments.

c.

Employees who have a temporary appointment and work part-time; and seasonal employees working either full-time or part-time; and employees who have an emergency appointment, do not earn annual leave.

(Code 1983, § 2-4-13(a); Ord. of 7-14-2005, § (a))

Sec. 46-38. - Sick leave.

Sick leave is given to employees only for sound and valid reasons. It is so designed to meet necessary, emergency conditions of illness. Each department head has the authority to approve or disapprove sick leave applications. Sick leave shall not be abused; it is to be used as insurance for salary continuation in the event an employee becomes ill and is unable to work.

(1)

Eligibility. An employee may be eligible for sick leave for the following reasons:

a.

Personal illness;

b.

Quarantine of an employee by physician;

c.

Illness in the immediate family requiring the employee to remain at home;

d.

Death of a member of employee's immediate family. Immediate family shall mean and include spouse, child, step-child, grandchild, parent, grandparent, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, or the spouse of any of them. These relationships shall include those arising from adoptions, persons who are married by common law marriage or who are living together without the benefit of matrimony are also considered related under the intention of this rule;

e.

Appointments with physicians for self or dependents.

All full-time employees, and career employees serving temporarily in substitute or acting capacities, are eligible to accrue sick leave as described in subsection (2) below. Temporary, seasonal, and part-time employees are not eligible for sick leave except as described below.

(2)

Sick leave for on-the-job injury. An employee who sustains an injury on the job must, at the time of the injury or as soon as possible thereafter, notify the supervisor on the forms provided. The appropriate department head shall review the case and make recommendations to the city manager or designate for appropriate compensation. If the injury necessitates the employee's absence from work, the employee shall receive only that compensation provided under workman's compensation.

(3)

Accrual of sick leave.

a.

Employees who have a permanent appointment and work full-time, shall accrue sick leave at the rate of one day per month, or 12 days per year.

b.

Accumulation begins as soon as employment begins, but sick leave may not be taken until after three months of continuous employment with the city.

c.

Sick leave is accrued during any month in which the employee is at work at least one-half the work days within that month.

(4)

Reporting of sick leave. An employee who is absent from work because of illness is responsible for reporting to the appropriate supervisor or department head at the designated reporting time on the day of absence, and will be expected to keep his supervisor or department head informed of his progress on a regular basis; such leave will be charged against sick leave. Where a relief employee is required in a department which must provide 24 hours' sustained service, the employee, if possible, should report his absence two hours before the designated reporting time. In the event of failure of compliance with this provision, the employee will be charged on the payroll with leave without pay. A physician's certificate may be required for sick leave absences of three or more days.

(5)

Use of sick leave. Sick leave is not to be considered a right which an employee may use at his discretion, but a privilege not to be abused. Abuse or misuse of sick leave is a cause for disciplinary action since falsification of any information required by the city and/or "absences without leave" are both causes for reprimand, suspension, and dismissal. Department heads who feel an employee is abusing the sick leave privilege may also require the employee to furnish a doctor's certificate for each period of absence regardless of the provision of subsection (4) above.

(6)

Accumulated sick leave. An employee, upon separation from the city service, shall not receive payment for accumulated sick leave.

(7)

Extended sick leave. In addition to sick leave accrued, additional sick leave may be advanced up to a maximum of 12 days with the approval of the city manager. Extended sick leave will be granted only due to extraordinary circumstances, such as for a serious injury or disease, (heart attack, cancer treatment, not for a cold, headache, or flu). Sick leave may not be advanced during a leave without pay status. Leave records will show a negative balance until normal accruals reduce the balance to zero.

(8)

Sick leave wellness incentive. Employees who successfully undertake wellness programs are eligible for monetary incentives. Qualified wellness programs include weight reduction programs, stop smoking programs, preventive physical examinations, and similar wellness-promotion activities. Eligible employees may apply for monetary incentives by providing the city manager receipts of

expenditures made and proof of results achieved. Incentives payments shall be at the rate of 300 percent of the value of sick leave hours surrendered by the employee to the city, at the discretion of the city manager.

(9)

Other employees.

a.

Employees who have a permanent appointment and work part-time accrue sick leave on a prorated basis, as determined by the city manager, computed on the basis of the ratio of hours worked during the prior three-month period relative to the work defined for full-time employment.

b.

Employees who have a temporary appointment and work full-time, other than seasonal employees, accrue sick leave on the same basis as employees who have permanent appointments.

c.

Employees who have a temporary appointment and work part-time; and seasonal employees working either full-time or part-time; and employees who have an emergency appointment, do not accrue sick leave.

(10)

Any employee may accumulate at most a maximum of 65 days (520 hours) of sick leave. No additional sick leave will be credited until sick leave time is used and an employee's accrued sick leave falls below 520 hours. Employees who have accrued more than 520 hours prior to the effective date hereof (January 12, 2012) shall retain those hours, but no additional sick leave will be credited until accumulated sick leave is used and the accrued hours fall below 520 hours at which time credit will recommence subject to a 520 hour maximum.

(11)

An employee may be compensated for up to 65 days of sick leave at the rate of \$25.00 per day upon retirement or death. In the event the payment is owed as a result of the death of the employee, the payment will be made to the beneficiary designated by the employee for this purpose and/or to the representative(s) of the employee's estate if no beneficiary is designated.

(Code 1983, § 2-4-13(b); Ord. of 7-14-2005, § (b); Ord. No. 2010-03, 3-11-2010; Ord. No. 07-2012, 12-8-2011)

Sec. 46-39. - Civil leave.

An employee will be granted civil leave when it is necessary for the employee to answer a subpoena, perform emergency civilian duty for national defense, or serve on a jury. The employee will be paid his or her regular salary while on civil leave and such leave shall not count against vacation or sick leave.

(Code 1983, § 2-4-13(c); Ord. of 7-14-2005, § (c))

Sec. 46-40. - Military leave.

Employees may receive a leave of absence not to exceed 15 days for participation in the National Guard, Reserved Armed Forces or other military duty. The employee will be paid his or her regular salary during this period in accordance with O.C.G.A. § 38-2-279. Request for leave shall be accompanied by a copy of the official orders requiring training or duty.

(Code 1983, § 2-4-13(d); Ord. of 7-14-2005, § (d))

Sec. 46-41. - Maternity leave.

Maternity leave may be charged to accumulated sick leave, vacation leave to the extent available, or may, at the option of the employee, be taken without pay. The same procedures for sick leave, vacation leave and leave without pay shall apply where appropriate.

(Code 1983, § 2-4-13(e); Ord. of 7-14-2005, § (e))

Sec. 46-42. - Leave without pay.

(a)

Generally. When it is deemed in the best interest of the employee and the city, a permanent status career employee may be granted leave without pay for personal or other reasons, provided such leave is recommended by the department head and approved by the city manager. Non-career employees are not eligible for grants of leave without pay. Leave without pay shall not exceed one year.

(b)

Valid reasons. Valid reasons shall include, but not be confined to, the following: Prolonged illness or disability of the employee or a member of the employee's household, educational or training enrichment, pregnancy and childbirth, and military service.

(c)

Procedure for requesting leave without pay. Application for leave without pay shall be submitted in writing in advance, showing the employee's reason for requesting such leave and shall contain a statement that he intends to return to the city service upon expiration of such leave and that he agrees to the terms and conditions as outlined in these policies. In emergency situations, when an employee does not have accrued leave and is unable to return to work as scheduled as a result of illness or emergency reasons, his department may recommend approval of the granting of leave without pay without prior application by the employee, or the personnel officer may investigate and make such recommendations in the absence of the department head.

(d)

Temporary filling of position of employee on leave without pay. During the employee's approved leave of absence, his position may be filled by the temporary appointment of a substitute. At the expiration of leave without pay, the employee (subject to subsection (e) below) shall be reinstated in his former position, and the substitute employee returned to his former position without loss of status or benefits.

(e)

Rights of employee on leave without pay; reinstatement in former position. Employees granted leave without pay not exceeding two calendar months shall be entitled to reinstatement in their former position. For employees granted leave without pay exceeding two calendar months, every effort will be made to return the

employee to his former position or a comparable one. He shall be listed on reemployment lists in the same manner as employees who are laid off in good standing.

(Code 1983, § 2-4-13(f); Ord. of 7-14-2005, § (f))

Sec. 46-43. - Holiday leave.

The city observes paid holidays each year in accordance with the following:

(1)

Observed holidays. The following are observed as paid holidays: New Year's Day; Martin Luther King Day; President's Day; St. Patrick's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and Friday after Thanksgiving Day; Christmas Eve and Christmas Day.

(2)

Optional paid holiday. Each employee has the option of observing their own birthday in lieu of observing President's Day. If an employee elects to take his own birthday in lieu of President's Day, the day off must be taken within three days of the actual birthday date.

(3)

Observation of weekend holidays. When a holiday falls on a Saturday, it is observed on the Friday before. If it falls on Sunday, it is observed on the following Monday.

(4)

Alternative paid holidays for certain holidays. Uninterrupted continuation of service is required of some city departments. Consequently, the work schedule of employees in those departments sometimes necessitates work on authorized holidays. Holiday leave for these employees shall be administered as follows: Employees who work on an authorized holiday shall be granted a workday of leave with pay at a later date to be determined by the appropriate department head.

(5)

Permanent appointment with full-time service. Employees who have a permanent appointment, and who work full-time, are paid one full day's pay for each observed holiday.

(6)

Permanent appointment with part-time service. Employees who have a permanent appointment and work part-time are paid one day's pay for each observed holiday on a prorated basis, as determined by the city manager, computed on the basis of the ratio of hours worked during the prior three-month period relative to the work defined for full-time employment.

(7)

Other employees. Employees who have a temporary appointment and work full-time, other than seasonal employees, receive holiday leave on the same basis as employees who have permanent appointments employees who have a temporary appointment and work part-time; and seasonal employees working either full-time or part-time; and employees who have an emergency appointment, do not receive holiday leave.

(Code 1983, § 2-4-13(g); Ord. of 7-14-2005, § (g); Ord. of 1-11-2007; Ord. No. 18-2007, 12-20-2007)

Sec. 46-44. - Family and medical leave without pay.

(a)

Generally. The provisions of this section are regulated by the Family and Medical Leave Act of 1993 (P.L. 103-3) and pertinent department of labor regulations as they may be promulgated. The city specifically reserves the right to add to, change or abolish the provisions of this section, in whole or in part, based upon pertinent action by any appropriate legislative, judicial or regulatory authority.

(b)

Eligibility and reasons granted.

(1)

Applicability. The provisions of this section apply only to those employees who have been employed for at least 12 months (such 12 months of employment does not have to be consecutive) and who have provided at least 1,250 hours of service during the 12 months before any leave is requested. In determining the hours worked, paid leave, such as vacation, sick or compensatory leave is not included.

(2)

Conditions. The city manager will grant up to a total of 12 work weeks of Family and Medical Leave Act (hereinafter FMLA) leave to any eligible employee during any 12-month period for one or more of the reasons listed below. The 12-month period for purposes of this section shall be measured forward from the date any employee's first FMLA leave begins. However, employees are required to first use any accrued vacation, sick, holiday or compensatory leave for all or any part of this 12-week period. When paid accrued leave is used by an employee in lieu of unpaid FMLA leave, the city will only provide sufficient unpaid leave to total 12 weeks in the designated 12-month period of time.

a.

Reasons.

1.

Birth of child and to care for that child is requested within one year after birth of the child. Employees are required to give at 30 days' notice for a request for this reason and specify the amount of time requested. If, due to unforeseeable circumstances, some adjustment must be made to the requested leave, employees are required to provide the city with reasonable notice of such adjustment. Failure to comply with this notice requirements may be grounds for postponement of the requested leave.

2.

Placement for adoption or foster care of a child if requested within one year after placement of the child. Employees are required to give at least 30 days' notice for a request for this reason and specify the amount of time requested. If due to unforeseeable circumstances, notice is not able to be given within the 30-day time period, employees are required to provide reasonable notice within two business days of learning of the need for leave. Failure to comply with this notice requirement may be grounds for postponement of the requested leave.

3.

Serious personal health condition making the employee unable to perform the essential functions of his job. Employees are required to give notice as soon as practicable after the need for FMLA leave becomes known to the employee, and specify the amount of time requested.

4.

Care for a parent, spouse, or child with a serious health condition. A qualifying child must be under 18 years of age or if older, incapable of self-care because of a mental or physical disability. Employees are required to give notice as soon as practicable after the need for FMLA leave becomes known to the employee, and specify the amount of time requested. For purposes of this policy, a parent includes only a biological parent or an individual who stands or stood in loco parentis to the employee when the employee was a child. Parent-in-law is not included. For purposes of this policy, child includes biological children, adopted children, foster children, step children, legal wards or a child of an employee standing in loco parentis and the child is either under age 18 or older and incapable of self-care because of a mental or physical disability. For purposes of this policy, spouse means husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides including common law marriages in states where it is recognized. Domestic partners are not eligible for the provisions of this section. Leave for care of any other relatives or for any other individuals who may be a part of an employee's household is not authorized by this section.

b.

Serious health conditions. For the purposes of this section, a serious health condition is an illness, injury, impairment or physical or mental condition that involves one of the following:

1.

Hospital care. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with, or as a consequence of, such inpatient care.

Incapacity for the purpose of FMLA is defined to mean inability to work, attend schools, or perform other regular daily activities due to the serious health condition, treatment for it, or recovery from it.

2.

Absence plus treatment. A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:

i.

Treatment two or more times by a health care provider, a nurse, or physician's assistant under direct supervision of a health care provider

or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

ii.

Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.

3.

Due to pregnancy, or for prenatal care. Any period of incapacity due to pregnancy or for prenatal care.

4.

Chronic conditions requiring treatments. A chronic condition that:

i.

Requires periodic visits for treatment by a health care provider or a nurse or physician's assistant under the direct supervision of a health care provider;

ii.

Continues over an extended period of time (including recurring episodes of a single underlying condition); and

iii.

May cause episodic incapacity rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

5.

Permanent/long-term condition requiring supervision. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment from a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6.

Multiple treatments (non-choric conditions). Any period of absence to receive multiple treatments (including any period of recovery from them) by a health care provider or a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would be likely to result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer, chemotherapy, radiation, etc., severe arthritis (physical therapy) or kidney disease (dialysis).

(3)

Notice required; initial certification. Employees must give 30 days' notice for all requests for leaves of absences for any planned medical treatment. If the employee fails to give 30 days' notice, when

requested, for foreseeable leave, with no reasonable excuse for the delay, the city manager may deny the taking of FMLA leave until at least 30 days after the date the employee provides notice to the city manager of the need for FMLA leave. All requests for FMLA leave for the serious medical condition of the employee, spouse, parent or child must be substantiated by a health care provider's certification of the existence of such medical condition. The initial certification must be provided within 15 days after the city requests such certification. The city's request for certification shall be written and addressed to the employee.

(4)

Recertification of health status; reduced work schedule; etc. The employee is required to provide his department head on the beginning day of the sixth and twelfth week of FMLA leave, a recertification by the health care provider of the status of the employee's, spouse's, parent's or child's serious medical condition, and a written statement by the employee as to his intention to return to work. If the employee's FMLA leave is intermittent or a reduced schedule of work, the employee shall provide the required recertification and written statement of intent at such time as the employee's accumulated FMLA leave totals six weeks and 12 weeks. Intermittent leave or a reduced schedule of work may be taken whenever medically necessary to care for a seriously ill family member or because the employee is seriously ill and unable to work. Employees needing intermittent leave or leave on a reduced schedule must attempt to schedule their leave so as to not disrupt the department's operation. Intermittent leave or a reduced work schedule will not be approved for birth of a child, placement for adoption or foster care of a child. The city reserves the right to temporarily transfer an employee on intermittent leave or a reduced work schedule to work an alternative position, with equivalent pay and benefits that better accommodates the recurring periods of leave than the employee's regular position.

(5)

Both spouses employed by city. If a husband and wife are employed by the city, they are limited to a combined total of 12 work weeks of FMLA leave during any 12-month period for the following reasons only:

a.

Birth of a child, and to care for the newborn child;

b.

Placement of a child with the employee for adoption or foster care; or

c.

The care of a parent with serious health condition.

(6)

Updated address. The employee is required to keep the department of personnel (payroll section) advised of his current address at all times.

(c)

Employee benefits during leave.

(1)

Health insurance. The city will provide and pay for the same group health care coverage during the FMLA leave in the same manner as for active employees. The city will notify the employee on FMLA to pay the employee portion of any health insurance premium owned to the city during his absence. If the employee elects not to return to work after the FMLA leave, the city will initiate proceedings to collect the city's portion of the premium paid during the leave of absence. The city will not collect such premiums if the employee fails to return to work after the FMLA leave due to a continuation, recurrence or onset of the medical condition or other circumstances affecting the employee or other family members which are clearly beyond the employee's control.

(2)

Life insurance. The employee may elect to continue coverage of the city's life insurance benefit. The employee is responsible for timely payment of all premiums, including city's portion during his absence. The employee is responsible for timely payments of all premiums for any supplemental policies the employee wishes to continue. Failure to pay the monthly premiums within 30 days of the due date will result in termination of the coverage.

(3)

Vacation and sick leave. No vacation or sick leave will be earned by an employee on leave of absence without pay status.

(4)

Pension plans. No contributions will be made to the employee's supplemental pension fund while on leave without pay status. However, credit for service time for the employee's regular pension plan will be credited to any employee while on leave without pay status for family and medical leave purposes only.

(5)

Performance evaluations, performance awards and longevity bonuses. Any leave of absence without pay for four or more weeks will result in a corresponding adjustment of evaluation date and if eligible, the effective date of award of any eligible performance raise or bonus or longevity bonus will also be adjusted.

(d)

Return to work.

(1)

Failure to return. An employee is expected to return to work no later than the first workday of the week following the expiration of the FMLA leave for the above reasons. Failure to do so for any reason will constitute abandonment of the city employment by the employee.

(2)

Job status at time of return. Upon return to work from FMLA leave, an employee will be restored to his original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

(3)

Absence due to personal illness. If the employee's absence is due to personal illness, the employee may return to work at any time providing a fitness for duty certification by his health care provider.

Employees who desire to return to work prior to the end of their leave must give the city notice as soon as possible, but no later than two work days prior to their return. If any employee who requests leave under this section is identified as a key employee (a salaried employee who is compensated among the highest ten percent of all city employees at the time of the request) when he requests such leave, then such employee may be denied restoration to his employment with the city under the following conditions:

a.

The restoration of the employee to employment will cause substantial and grievous economic injury to the operations of the city;

b.

The city manager gives written notice to the employee of his status as a "key" employee in response to the employee's notice of intent to take FMLA leave, and informs the employee of the potential consequences with respect to reinstatements and maintenance of health benefits if the city determines that substantial and grievous economic injury to the city's operations will result if the employee is reinstated from FMLA leave;

c.

The city manager gives the employee written notice as soon as possible as a decision is made to deny job restoration and explains the reasons for the decision;

d.

The city manager offers the employee a reasonable opportunity to return to work from FMLA leave after giving notice; and

e.

The city manager makes a final determination as to whether reinstatement will be denied at the end of the FMLA leave period if the employee then requests restoration.

(e)

Procedure.

(1)

Employee's responsibilities. The employee requesting family/medical leave should complete a request form as provided by the personnel department. Such request form should be submitted to the employee's department head and forwarded to the personnel director and the city manager. The employee should meet with the personnel director to explain the circumstances of the leave and for the personnel director to explain the employee's right and obligations under this act. The employee is also responsible for providing all information required on the form, notice of absence when required and for all certifications by any treating health care provider. An employee must work cooperatively with supervisors and department heads to work out a treatment schedule which best suits the needs of both the city and the employee.

(2)

Department responsibilities. The department head and the city manager are required to approve leave as outlined in this section for eligible employees. The city manager, department heads or supervisors are prohibited from discriminating against employees who take family and medical leave

in employment decisions such as performance evaluations, promotions or disciplinary actions. Department heads are required to maintain the departmental and/or division poster notifying employees of the provisions of the FMLA. If an employee verbally notifies a supervisor or department head of the need for leave which may be eligible under this policy, such supervisor should require further of the employee of the need to have more information about whether FMLA leave is being sought by the employee, and to obtain the necessary details of the leave to be taken.

(3)

Personnel director. The personnel director will serve as advisor to employees and supervisors on the requirements of eligibility for family/medical leave and the provisions of the FMLA. All records pertaining to family and medical leave will be maintained in the employee's confidential medical file in the custody of the personnel director. The personnel director will be responsible for notification of any premiums due from the employee and the collection of same.

(Code 1983, § 2-4-13(h); Ord. of 7-14-2005, § (h))

Sec. 46-45. - Overtime/compensatory time off; approval and designation.

It is the intent and policy of the city to comply with the provisions of the Fair Labor Standards Act, as it applies to local governments, in its overtime and compensatory time provisions for city employees. In the event that the city's personnel policy should differ from the FLSA, the FLSA controls. Occasionally eligible employees may be called upon to work overtime, and such employees are to be paid at a rate of 1½ hours for each hour worked, in excess of 40 hours per week or in excess of their established work period, as applicable, or may receive compensatory time off. The following particulars apply:

(1)

Only employees eligible for overtime pay are eligible for compensatory time off in lieu of overtime pay.

(2)

Employees not eligible for overtime pay are those employees defined by the Fair Labor Standards Act (FLSA) as "Non-Covered Employees." Included within the definition of noncovered employees are executive, administrative and professional employees, and other salaried employees.

(3)

Overtime work must be approved and authorized by the city manager, prior to performance of the work, except in emergency conditions when overtime may be approved by the appropriate department heads.

(4)

The eligible employee working the approved overtime may elect to receive compensatory time off in lieu of overtime pay, either compensation being earned on the basis of 1½ hours for each hour of overtime worked in excess of the maximum hours applicable to the type of employment in which the employee is engaged.

(5)

Eligible employees electing to receive compensatory time off in lieu of overtime pay may accrue compensatory time up to the maximum amounts specified below, and must be paid overtime for

overtime hours worked when the maximum accrued amounts have been earned and are unused. The maximum accrued amounts are as follows:

a.

Eligible employees engaged in a public safety activity, an emergency response activity, or seasonal activity, as defined by FLSA, may accumulate up to 480 hours of compensatory time for 320 hours of overtime worked.

b.

All other eligible employees may accumulate up to 240 hours of compensatory time for 160 hours of actual overtime work.

(6)

Noncovered employees, including executive, administrative and professional employees, and salaried employees are not eligible for overtime compensation nor compensatory time off. It is recognized that the positions of these employees often require them to work beyond the regular scheduled hours of duty, and some flexibility shall be granted them in adjusting their work schedules to meet varying workloads. These employees are granted the privilege of adjusting their work schedules to work lesser hours when their workloads permit. There shall be no accumulation of administrative leave of any nature beyond these employees' privilege of adjusting their work schedules and upon departure from employment with the city, these employees will not be paid for any claimed administrative leave for supposed overtime work.

(7)

If compensation is paid to an eligible employee for accrued compensatory time off, the compensation will be paid at the regular rate earned by the employee by the time the employee receives such payment. An eligible employee who has accrued compensatory time off upon termination of employment will be paid for the unused compensatory time at a rate of compensation not less than:

a.

The average regular rate received by the employee during the last three years of the employee's employment; or

b.

The final regular rate received by the employee, whichever is higher.

The official time and attendance records maintained by the city's personnel office will be the controlling records for any compensatory time purpose.

(8)

The city may pay an employee in cash, in whole or in part, for accumulated compensatory time, at any time.

(Code 1983, § 2-4-14)

Sec. 46-46. - Authorization and conditions required for outside employment.

Employees are expected to devote primary attention to the requirements of their city jobs. It is permissible to obtain outside employment if the employee first gains written approval from the appropriate department head and if:

(1)

There is no conflict in working hours;

(2)

The employee's job efficiency is not reduced;

(3)

There is no conflict of interest that could cause embarrassment to the city or to the employee.

(Code 1983, § 2-4-15)

Sec. 46-47. - Political activity.

(a)

No city employee shall actively seek city elective office or actively advocate or oppose the candidacy of any individual for nomination or election to any city office. An employee may participate in political activities at other levels of government, provided that such participation is not engaged in during working hours, and provided such participation does not adversely affect performance as a city employee.

(b)

An employee who qualified for elective office at the city level shall resign in writing from city service effective the date of qualification.

(c)

Nothing in this section shall be construed to prevent employees from becoming or continuing to be members of any political party, club or organization; attending political meetings; expressing their views in private on political matters outside working hours and off city premises; or voting with complete freedom in any election.

(Code 1983, § 2-4-16)

Sec. 46-48. - Employee training and educational development.

(a)

In-service training. The city manager shall be responsible for fostering and promoting in-service training of employees for the purpose of improving the quality of service and to assist employees in preparing themselves for advancement.

(b)

Educational enrichment. Upon the recommendation of the department head and the prior approval of the city manager, an employee may receive payment for the cost of tuition and books for any job-related course successfully completed with a passing grade and/or completion certificate. Such courses shall be taken during employee off-duty hours unless it is necessary training for the job which is specifically approved by the department. The city manager may also approve compensation based on regular city travel policies.

(Code 1983, § 2-4-17)

Sec. 46-49. - Employee fringe benefits.

(a)

Retirement system. Provisions for retirement systems for city employees shall be as outlined in any retirement ordinance passed or amended by the mayor and council.

(b)

Insurance benefits. Provisions for group insurance and group medical coverage for employees shall be as outlined in existing group contracts and plans, or as they may be amended.

(1)

Employees who have a permanent appointment and who work full-time, are fully eligible for insurance benefits.

(2)

Employees who have a permanent appointment and work part-time, are partially eligible for insurance benefits/premium payments on a prorated basis, as determined by the city manager, computed on the basis of the ratio of hours worked during the prior three-month period relative to the work defined for full-time employment, if they otherwise meet the insurance plan criteria. In such cases, the employee shall pay that portion of the insurance premiums not computed to be provided as an employee insurance benefit.

(3)

Employees who have a temporary appointment and work full-time, other than seasonal employees, receive insurance benefits on the same basis as employees who have permanent appointments, if they otherwise meet the insurance plan criteria.

(4)

Employees who have a temporary appointment and work part-time; and seasonal employees working either full-time or part-time; and employees who have an emergency appointment, do not receive insurance benefits.

(5)

Employees of the city who are currently eligible for insurance benefits under the city's group medical coverage and who elect to accept the early retirement program effective May 1, 2003, shall be entitled to:

a.

Continuing HMO healthcare benefits or PPO healthcare benefits for the retiree employee only at a cost not to exceed \$348.00. Retirees can purchase dependent health coverage at their own expense. The coverage will be in lieu of COBRA benefits.

b.

The city reserves the rights to terminate, discontinue, modify, decrease or otherwise limit the health benefit provisions included as part of the early retirement incentive program at anytime in the future. The benefits stated herein are not available to any employee ineligible for the early retirement program effective May 1, 2003, or to employees eligible for the program but who elect not to participate, nor are the benefits stated herein available to other future retirees. All provisions are contingent upon an acceptable agreement with GMEBS.

(c)

Uniforms and equipment. Uniforms for police and fire department employees and such other employees as the city manager may authorize and may be furnished by the city. Equipment deemed necessary and essential to job performance may also be furnished if authorized by the city manager.

(Code 1983, § 2-4-18)

Sec. 46-50. - Travel, travel expense and other reimbursements. 

(a)

Travel outside of area.

(1)

Occasionally employees may be required to travel outside the city to attend meetings, conferences, and job related workshops and seminars, however, no official travel outside the city and immediate area shall be authorized without prior approval of the appropriate department head. In the case of department heads themselves, this approval must be obtained from the city manager.

(2)

If city employees use personal vehicles for out-of-area, city-related travel or in the performance of employment within the city, such employees will be reimbursed at a rate determined by the mayor and council.

(b)

Lodging and modes of travel. Lodging and modes of travel other than automobiles that are required for out of area travel are reimbursable with the proper receipts for expenses incurred. Any meal required out-of-town for day or night meetings will be reimbursed if the employee is required to pay for said meals personally.

(c)

Subsistence. Subsistence expenses for travel will be on an actual meal and lodging charge basis. Only the actual paid lodging and meal expenses are allowed. Receipts for lodging expense are required.

(Code 1983, § 2-4-19)

Sec. 46-51. - Reserved. 

Editor's note—

Ord. of Sept. 27, 2007, § 1.01, repealed [§ 46-51](#), which pertained to acceptance of gifts and gratuities and derived from Code 1983, § 2-4-20.

Sec. 46-52. - Use of city vehicles. 

(a)

License requirements; citations, fines, etc., given by police. Employees driving city vehicles are required to have such driver's licenses for the vehicles being driven as is required by law, irrespective of whether the employee drives the vehicle on a regular, occasional, or other basis, and whether or not this requirement is included or omitted in the description of the class to which the employee was appointed. Violation citations, fines or other actions taken by any police jurisdiction against any employee while driving a city vehicle in violation of this rule shall be the responsibility of the employee and may be cause for disciplinary action.

(b)

Use of vehicles. Anyone misusing or abusing city vehicles, using a city vehicle for other than approved purposes, or taking a vehicle home when not approved, shall be subject to appropriate disciplinary action, including dismissal if deemed appropriate.

(c)

Permission to take city vehicles home. City employees, who are certified police officers, whose jobs include the use of a city vehicle, are authorized to drive a city vehicle to their home if it is within 20 miles of the city limits. Permission for any other employee to drive a city-owned vehicle home will be at the discretion of the city manager.

(Code 1983, § 2-4-21)

Sec. 46-53. - Reciprocal agreements for use of materials, services, etc. 

The government is authorized and empowered to enter into reciprocal agreements upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed of benefit to the public personnel system.

(Code 1983, § 2-4-22)

Sec. 46-54. - Penalties. 

Any person who willfully violates any provision of this law or the personnel policies established herein may, upon action of the proper authority as outlined in the personnel policies, have one of the following judgments rendered:

(1)

Dismissal from city service;

(2)

Demotion in rank or grade;

(3)

Suspension for a period of time not exceeding 30 days;

(4)

Ineligibility for appointment to or employment in a position in the city service for a period of time, or indefinitely.

(Code 1983, § 2-4-23)